

ECHOES OF THE GULAG

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STRATEGY?

By Lawrence Halbert

I understand that some individuals involved in the Hydrick class action lawsuit have lost their patience or just become uninvolved. I find myself, most of the time, defending the position that, in a 42 USC §1983, it takes quite a bit of time and patience to litigate. Yes some of you have been successful in getting around having your case stayed behind the Hydrick lawsuit, past summary judgment, even got attorneys appointed to you. How many have gone to trial and won? Especially with such an entrenched law as the S.P.V.A.?

I do not believe that Latham & Watkins are purposefully deceiving us. I believe that they have a strategy that some of us may not find to our way of thinking. Yes, we are sex offenders. Does that give the state the right to violate the United States Constitution? Of course, NO! All it means is that the fight we fight we have to fight harder. Sometimes it may be better to listen to the professional. After all they are the ones with all the experience and knowledge. I know it is hard to trust someone, especially when you find yourself in a situation like ours.

You cannot get relief in suing someone if you do not suffer some kind of loss. Then you must prove, in a 42 USC §1983, that the person harmed you did so in spite of their knowledge that their actions violated your rights. Its not a slam dunk.

There have been two states with S.V.P.A. laws that have challenged conditions of confinement for persons
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PREDICTING FUTURE DANGEROUSNESS

By: Tony Inniffo

In 1993 the United States Supreme Court explained the difficulties inherent in attempting to predict future dangerousness in the area of acquired mental illness as compared to the mentally retarded at birth. Mental illness, unlike mental retardation, can vanish as quickly as it surfaced and therefore, any prediction of dangerousness within the mentally ill or disordered should be limited solely to the present rather than the future and that is why signs of such dangerousness should be overt and recent which has been "deemed necessary to mitigate the problems inherent in accurately predicting dangerousness." See In re Labelle, 107 Wn. 2d 196 (Wash 1986) Dr. Stephen D. Hart, who is a scientist that has extensive experience in risk assessments and who has been highly accredited as a well qualified expert in this relevant scientific community, said that "one of the things that has been very difficult to do over the years is to pick a precise probability that someone will do something."

Lee Coleman, M.D., explained the problems in attempting to predict future dangerousness: "Legally sanctioned prediction of dangerousness illustrates the dilemmas associated with psychiatric authority. Finally, in the 1960's and 1970's, research studies demonstrated conclusively that psychiatric predictions were no better than flipping a coin. In fact they were worse, because a coin flip at least is based on chance.
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THE DELPHI TECHNIQUE IS USED AT ASH

By: R.D. Lefort

The Delphi Technique was created to help group "facilitators" effectively "dialogue" groups of people to a "consensus." This technique is used to manipulate participants of a group into reaching a pre-determined decision, or jury finding. Read up on the Delphi Technique and think of all the times you have seen situations controlled by this process. It is important for us to refuse to be controlled by such tactics, ever again.

In retrospect, I have seen this technique used in the trial courts and by the Appellate Court(s) and by the Attorney General, as they try to misdirect you away from the question before them. Once you allow yourself to be taken off track, you start to focus on the issues raised by the A.G., not the issues you have initially raised. Most are unfamiliar with this method of psychological manipulation until it's pointed out to them, then "we" see "what is really going on." I have seen this technique used in the "group confrontation tactics" of the psychological (SOCP) "groups" and the (POC) parole outpatient clinics. "In group settings, the Delphi Technique is an unethical method of achieving consensus on controversial topics [such as sexually violent predators]. It requires well - trained professionals, known as 'facilitators' or 'change agents,' who deliberately escalate tension among group members, pitting one faction against another to make a pre-ordained viewpoint appear 'sensible,' while
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PREDICTING

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Psychiatric predictions, the studies showed, were not only unscientific but also based on hidden, personal factors that often led to injustice."

See Leo Coleman, M.D., *The Reign of Error*, (Beacon Press, Boston, 1984) P. 6

Dr. Terence W. Campbell, Ph.D. explained the accumulated literature reported the rate of error associated with attempts at predicting future violence ranged from 54 to 95%. "A rather large and consistent body of empirical evidence indicates that the standards of the profession include no ability to accurately predict dangerous behavior. Not only have psychologists and psychiatrists been unable to predict dangerousness to a degree of accuracy which would justify infringing on a client's rights, they have been unable to predict any more accurately than nonprofessionals. Dr. Terence W. Campbell, *Sexual Predator Evaluations and Phrenology: Considering Issues of Evidentiary Reliability* (2000). P. 62

It can also be argued that the biases of practicing psychologists predispose them to "rule in" future dangerousness. For practicing psychologists undertaking a predator evaluation, the cost of false positives and false negatives errors are far from equal. In the instance of a false positive error, that outcome rarely if ever receives public attention. An offender mistakenly classified as a predator may protest his fate. His protests, however typically fall upon deaf ears as he lingers in the obscurity of indefinite confinement. In cases of false negative errors, however the psychologist involved can endure the harsh spotlight of public criticism. - See Terence Campbell @ P. 63.

Dr. Coleman said that psychiatric predictions of dangerousness are based on the psychiatrist's desire to "play it safe." "If a prisoner or mental patient is released by a

psychiatrist and later commits a crime, perhaps injuring or killing someone, it will be acknowledged that the psychiatrist made a terrible mistake. The psychiatrist may also worry that a victim or the victim's relative may be angry enough to bring a lawsuit."

Dr. Coleman then said that the one way psychiatrist's can easily avoid all this would be to simply conclude that the patient or prisoner is dangerous and must remain in custody because this eliminates any worry of possible violent behavior in the future.

Dr. Coleman says, "we have put our faith in today's psychiatrists just as we once put our faith in priests. Neither professional may make us safer, but we feel safer. In place of the religious rituals of the past, psychiatrists now perform scientific rituals - 'examinations' - to reassure." Also, Dr. Campbell further compared conflicting studies on the effectiveness of guided clinical risk assessments (GCRAs) which also appear to have very little reliability. Those inconsistent conclusions correspond to variations in clinical judgment between two or more evaluators assessing the same offender. Psychologists (A.) attributes considerable significance to the offenders age, but psychologist (B.) views the offenders failure to complete treatment as more compelling. Ultimately, then the value of GCRAs is undermined by their unavoidable reliance on clinical judgment.

After reviewing other consistencies against other data, Dr. Campbell concluded that although the "Sexual Violence Risk-20" (SVR-20) can claim a generally available manual; but, beyond that consideration, there is little else to recommend it for assessing the recidivism risk of previously convicted sexual offenders. Unfortunately, the commercial availability of the SVR-20 suggests that practi-

tioners may be more inclined to rely on it."

Professor Bruce J. Winick warned that to qualify as a mental disorder for this specific purpose a condition must be capable of so greatly impairing functioning that the individual is unable to engage in rational decision making or to control his or her behavior. See Bruce J. Winick, University of Miami School of Law, "Sex Offender Laws in 1990." In other words, the individuals specific impairment must render the predisposition so obvious as to negate prediction inaccuracies because, as explained by Wakefield and Underwager, "the prediction of future violence is difficult, complex and controversial, and psychologists do not have a good track record in making accurate predictions."

(Source of information; Lifers Union Bulletin: Vol. IV, #7(a) (July 2001);

FEDERAL INVESTIGATION

On June 22, 2005, The United States Department of Justice, Office of the Attorney General, Civil Rights Division, sent word that they have been given a formal approval to vigorously investigate abuse at Atascadero State Hospital.

Many of you may be aware of the investigation of Metropolitan State Hospital. The Attorney General's office has exposed massive abuse and corruption there; ASH is next!!

Patients: the investigators are requesting that you send them any and all information about abuse and corruption at ASH. (If you have already sent information to the Citizens Commission on Human Rights, that information has presumably been forwarded to Washington already).

Staff of ASH: Many of you have a conscience. Many of you are personally distressed about the things you see being done at ASH, but you don't know where to turn.

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THE DELPHI

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making opposing views appear ridiculous." (Lynn Stuter, "Using the Delphi Technique to Achieve Consensus.")

Other aspects of implementing Delphi are to ask questions that divert the group, or persons attention away from poor issues about which people may be justifiably concerned. If everything goes the way the facilitator intended, the group or jury reaches "consensus". This technique of "consensus building" leads us into an illusion that we are citizens in the participation. But our participation is only to facilitate the goals of the facilitator. You can see exactly "what's going on" once your eyes are open. The A.G., prosecutor, or his/her agents, the facilitators attempt to discredit their opposition (YOU) with lies or the accusatory history listed in the complaint applications, until the person (YOU) gets so hysterical, or angry, at being lied to and about (i.e. using the sentencing reports vs. the actual "details that led to prior conviction(s)" that the person shows his/her anger by screaming, or raising his voice in anger, at the facilitator. It's used all the time and it works, for the facilitator has then won by being able to denounce you (opposition/defendant) for being hysterical, or "violent." The key to their success is to make you angry, which makes you look like the VIOLENT "bad guy" the facilitator has presented you to be.

The way to diffuse this technique is to stay focused, be persistent, and never fall for the tactics. With polite persistence, don't become defensive. Never become angry, always be charming courteous and pleasant. Smile. Moderate your voice so as to never come across as belligerent or aggressive. Remember, facilitators - or prosecutors and their agents, work to achieve group consensus by

trying to make the majority of (or jury) members like them, and alienate anyone whom might pose a threat to the realization of their agenda. People with fixed beliefs, and those not afraid to stand up for what they believe in, are their obvious threats. Education activist, Lynn Stuter claims it sometimes takes one incident of this type for the crowd (or jury) to figure out "what is going on." (Dr. Carolyn Dean, MD, ND) The I.O., April 14, 2005 pp. 12-13; PO. Box 457, Spirit Lake, Idaho, 83869-0457 (Remember, knowledge is power, so stay informed.)

FEDERAL INVESTIGATION

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The investigators especially want to hear from you and your identity will be kept confidential. As staff, you have the most reliable source of information about all types of abuse, false charting, the "code of silence," in your ranks and even outright criminal conduct committed by staff against mental patients here. Please report whatever you know by contacting the investigator below.

To everyone, we have someone who has finally heard our cry. Please do not delay! Contact immediately: Robert Chan, U.S. Department of Justice - Special Litigation Section (PHB), 950 Pennsylvania Ave., N.W. Washington, DC. 20530. Phone: (202) 353-9270 (Collect calls cannot be accepted) Mr. Chan asks that you please send him your phone number, or leave a message where he can call you back, if they need to speak with you.

MR. DEAN'S CORNER

These mental health care professionals never really cared to afford us any respect from day one.

Now had we forced the issue a long time ago I believe we wouldn't be going through the crap we are right now. If we had taken steps to

deal harshly then, the stage would be set for right now. Most of us made it through prison fighting along, or flat on our backs in a cowardly manner.

I'm in no position to judge anyone on how they chose to do their time, strange stuff happens in California's prisons.

I don't understand everybody's thinking in regards to the respect they think should be afforded them without them first earning it. I spent my whole life fighting for or over my respect. I've earned my respect. It wasn't given to me just because, I worked for it and am always earning it day by day by day. You go through your whole life and earn your respect by the way you live and the deeds you perform.

I can't even begin to understand how anybody can think that respect is a given and that they believe its theirs automatically. I couldn't have that cherished respect without respecting myself first, how could anyone think it was theirs any other way?

I can understand where some people did stupid things that might have caused them to loose their self-respect, or just put it in doubt. You aren't the only person on this screwed up planet to doubt their self-respect, and your not the only person to question about whether or not your respect was earned. With out a doubt you'll not be the last person that thinks just because they learned a profession the respect was their automatically. You have to have the brain of a rabbit to think that the respect is yours on your education alone.

Folks I hate to be the bearer of bad news, but Correctional Officers in the State of California only have to have an high school or G.E.D education to become the highest paid (security guard) Rent-A-Pig in the state.

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MR. DEAN'S CORNER

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Just because they make more than any other security guard anywhere in the nation doesn't mean they have or ever will be respected.

A county judge isn't anything more than a lawyer that in some cases couldn't make it in the private sector. These people are demanding total and absolute respect from us just because. Some of these country bumpkins are really offended by our lack of concern towards them and their hurt feelings.

We will never give you the absolute regard you seem to think is yours. We will never give you unearned respect, or any other kind of respect until you make drastic changes in your personality and your attitude towards us.

Our respect is our own, only we can give it away. The Dignity that we've always had, and always will have is something that we have no intention of ever giving up. This is only my breath, please inhale.

NINTH CIRCUIT COURT HAMMERS CDC APPEALS COORDINATORS

By Toni Watson

On March 24, 2005, in Ngo v. Woodford, Case Number 03-16042, in a published opinion, the Ninth Circuit Court of Appeals, whose opinions effect eleven Western States, essentially tossed out the California Department of Corrections (CDC) procedural rejection criteria codified the Title 15 of the California Code of Regulations (15CCR), regarding the rejection of inmate appeals and grievances on procedural grounds.

In filing an administrative appeal or grievance, typically, an inmate must first attempt to resolve the issue at an "Informal" level (See 15CCR §§ 3084.5(a), 3084.6(c)). Then following rejection of the informal appeal, and inmate may file a "Formal" appeal

with the Appeals Coordinator (See Ibid). Who has the duty to screen and categorize appeals and may also reject appeals based on procedural requirements the inmate was unable to meet. Often the time spent in attempting to resolve the appeal at the "Informal" level cannot be documented and will delay the formal appeal filing beyond the 15 day time limit.

In 1995, Congress passed the Prison Litigation Reform Act (PLRA) and the part relevant to exhaustion of administrative remedy was codified at 42 U.S.C. § 1997e(a), which in pertinent part states: "No action shall be brought with respect to prison conditions under [42 U.S.C. §1983] . . . by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies available are exhausted."

Prison Appeals Coordinators, almost without exception, immediately began taking advantage of the PLRA by strictly enforcing procedural barriers to submitted appeals, thus avoiding addressing the actual appeal or grievance issues.

The Ngo Court noted that complex procedural timing schemes "would penalize the less sophisticated and less informed who are unable to satisfy complex demanding procedural requirements, regardless of the merits of their claims." (Ngo slip opinion at pg. 3606-07).

The Ngo case involved an appeal that the Appeals Coordinator rejected on procedural grounds because the inmate had not filed within 15 days of the action or incident being appealed. Ngo then filed a second appeal contending that his appeal was in fact timely. The court noted that it is unclear as to why the CDC has such a short deadline, but felt it unnecessary to decide the timeliness issue. Instead, the court held that any type of

"procedural default is not an inextricable element of the PLRA exhaustion requirements." (See slip opinion at pg. 3608).

The court discussed its reasoning and, in short, the administrative exhaustion rules have two principle purposes. "The first is to protect an administrative agencies authority by giving the agency the first opportunity to resolve a controversy before a court intervenes in the dispute. (See id.) The second is to promote judicial efficiency by either resolving the dispute outside of the courts, or by producing a factual record that can aid the court in processing a plaintiff's claim." (See slip opinion at pg. 3596).

The court found that, "The PLRA requires prisoners to exhaust all available administrative remedies before filing a §1983 claim in Federal Court. (See 42 U.S.C. §1997e(a)). The Appeals Coordinators second decision, Ngo exhausted his appeals because he could go no further in the prisons administrative system; no remedies remained available to him." (See slip opinion at pg. 3598).

After much discussion explaining the distinction between a failure to exhaust and a procedural default, the court stated: "Holding that the PLRA does not contain a procedural default bar thus could in no way obstruct the goal of allowing prison officials first crack at resolving prisoners' grievances. It is for the prison officials to decide whether to exercise its discretion and accept or refuse the opportunity to hear the case on its merits regardless whether the grievance is timely filed. In this case, the Appeals Coordinator could have considered Ngo's appeal; she was authorized to do so by the grievance regulations; but elected not to." (See slip opinion at pg. 3605) Within its conclusion the court stated: "Not even proponents of the PLRA wanted to bar worthy

claims." "Procedural default is not an inextricable element of the PLRA's exhaustion requirement." "We also hold the PLRA's exhaustion requirement does not bar subsequent judicial consideration of an exhausted administrative appeal that was denied on state procedural grounds." (See slip opinion at pg. 3608).

The court also makes the comment that, "Moreover, prison administrators should not be given an incentive to fashion grievance procedures which prevent or even defeat prisoners' meritorious claims." (See slip opinion at pg. 3608).

Within the text, the court also notes that there is a split in the circuits over some of the issues considered. Until, or even if, the U.S. Supreme Court ever decides to consider this issue, it will remain law in the Western States.

FOR EUGENE

By: Dan Kalish 6-30-2005

Eugene Acosta needlessly died on 6/29/05 of complication from prostate cancer that he contracted while he was a patient at Ascadero State Hospital. According to his paralegal test were to be performed that could have diagnosed his condition and prevented his needless suffering, were canceled by an uncaring staff member. Attorneys are currently looking into those allegations and although a successful lawsuit will not help Mr. Acosta, it may prevent such future malpractice for others. When Mr. Acosta died, he weighed 85 pounds. His watchband was on the last and smallest hole and went all the way up to his elbow. This was personally witnessed by Mr. Dan Kalish on a visit to Las Vegas a week before he died. As of this writing, Mr. Kalish is making arrangements through the V.A. and the V.F.W. to have Mr. Acosta's ashes interred at the V.A. cemetery in

Boulder City, Nevada.

As a post script, if you to have life saving medical tests performed and they do not occur in a timely manner and you have no reason why... find out why these tests have been cancelled contact your legal representative immediately.

INSIDE CIVIL COMMITMENT: COMPETING RIGHTS, COMPETING INTERESTS

By V. Jackson & L. Halbert

The social compact between society and the individual embodied in the Constitution, presupposes a singular focus in process, on rational limits of the state power, devoid of bias or prejudice born of animosity or destiny society feels for any one person or group of individuals. We are at our best when we celebrate the sanctity of our due process protections, and respect for liberty. We are at our worse when we allow fear, ignorance or misunderstanding to compromise that commitment at the expense of a segment of our society, irrespective of how we may feel towards them at any given moment. The fear and loathing society feels with respect to sex offenders is understandable, especially given the irrationally high assumed rates of recidivism and stereotypic characterizations of sex offenders in which most citizens have placed their faith.

This is not to diminish or in any way detract from the pain and suffering offenders may have heaped upon countless victims, nor does it excuse that behavior on a claim of mental or emotional incapacity. It does, however, seek a rational and effective solution to a problem that has, in recent years, appeared intractable, and seeks to do so at a cost society can't afford, financially, morally, and Constitutionally.

The enactment of the Sexually Violent Predator Act, in California 1996, and in other states at different

times, has consistently been civilly committing-soon-to-be-released sex offenders in numbers far in excess of what was to be expected. Whether it is for the stated purpose of protecting society (if so it has failed) or for the treatment of persons with a mental disorder that need treatment (also a failure) how, when the most comprehensive study, Hanson and Bussiere, 1998 finds that the reoffense rate never exceeded 40% (and in the U.S. Department of Justice Study 5.8%) can the State afford financially, or society afford morally, the arbitrary and capricious curtailment of the rights of scores of individuals who have met their obligation to society, often with a sense of deservedness that non-sex offenders will never realize.

Several of the many flaws in the implementation of the S.V.P.A may account for this fleecing:

1. Persons who initially screen a potential offender for proceedings have no experience in psychology or in the diagnosis and treatment of sex offenders. Nor do they have training in legal matters to decide complex issues that affect whether a individual meets the legal definition or criteria.
2. State evaluators are given a net to cast so wide, it creates a financial interest in maintaining a lucrative state contract and a moral interest in not wanting to appear soft on sex offenders.
3. The use of Actuarial scoring are often inflated or manipulated, citing opinions or justifications that sex offenses are underreported, when there is no specific studies to show that sex or non sex crimes are reported more or less than the other. Actuaries' are used to show how a group of individuals statically may act. With a 20% accuracy rate, there is a disproportionate amount of false positives misclassifying and offender as high risk.

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COMPETING INTERESTS

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4. Audio taping of evaluations should be mandatory at all stages of an evaluation.

5. Strong consideration for a less restrictive alternative should be available along with strong community support and supervision.

The problem for the sex offender is that once they are placed in a treatment facility, the state experts almost never make a finding that the offender is not a high risk. In as much as the vast majority of commitment hearings result in a judicial finding in favor of the state, once the individual is screened and two clinical evaluators make a true finding, the fate of the individual is largely sealed. Thus, the screening process is pivotal to a determination of need for civil commitment. It is at this critical juncture where the fewest safeguards exist. Designed to capture a large pool of potential recidivists, the reality is that anyone caught in the screening net has little chance of avoiding commitment.

It has been said that if we can't protect the integrity of the system, there is no system. While sex offenders understandably elicit little sympathy or concern, the focus must always be on what the state is doing or trying to do, not on who they are doing it to. Whenever the focus has been of the target of state efforts to suspend the rights and liberties of a particular group, the effort has usually been successful. This has been true whether the targeted group were Slaves, American Indians, Japanese Americans, Communists, or today Arab Americans.

Each generation in the face of a new threat, forsakes this commitment to process, indulges its fears, and abandons its capacity to reason, to impartially and dispassionately weight the merits of the arguments by which rational responses to each threat could be constructed. Each time, each generation sacrifices a bit

of itself, and its dignity and integrity.

It may be that only when any given generation recognizes first, for itself, the injustice it has wrought, rather than leaving that discovery to its progeny, that we will realize the democratic ideals embodied in our Constitution and made manifest by our actions as a nation and people. The only real question is, will this be that generation?

W&I \$6600 CODE UPDATES

From: Mike Suzuki, Attorney L.A. County

These recently introduced bills in both houses are progressing through committee. CPDA and CACJ are actively lobbying.

NOTABLE MOVEMENT SINCE LAST UPDATE 5/11/04

S.B. 364 to increase commitment term to 4 years has passed the Senate and is before the Assembly.

S.B. 383 to have D.O.C. supervise Conrep has passed the Senate and is before the Assembly.

COMMITMENT TERM:

A.B. 603 SPITZER 2/17/05:

This bill would increase the commitment term from the current 2 years to 5 years.

4/11/05: Amended: Parole does not toll during SVP Committee.

4/19/05: Failed passage in Public Safety Committee.

6/6/05: From Committee without further action.

S.B. 854 Poochigian 2/22/05:

INDEFINITE TERM [4/27: Amended 4 years]

This bill introduced to trump the above seeks to extend the commitment to an indefinite term.

This bill is apparently being introduced as it died in committee last year.

4/12/05: Amended: 4 year term of commitment. Remove parole does not toll language. SVP trials to receive priority in civil trials.

5/16/05: hearing set in appropriation committee

5/22/05: Amended to a legislature to work with other departments to explore prerelease programs.

5/31/05: In Assembly, Read 1st. tir SVP DEFINITION: S.B. 856

POOCHIGIAN 2/22/05: ADDITIONAL QUALIFYING OFFENSE

This bill would add the following as qualifying predicate conviction under the act:

Sec. 220: Assault to commit Ra
Sec. 261: All forms of Rape including intoxication, fraud, unconscious incapable of consent, etc.

Sec. 288.5: Continuous sexual abuse
This would open the door to incest offenders.

4/19/05: Failed passage in Public Safety Committee. Reconsideration Granted.

4/26/05: Hearing taken off calendar by author. No further action as of 6/7/05.

S.B. 1098: HOLLINGSORT

2/22/05: [Companion bill A.B. 14 Wyland] one 288a

This bill would reduce qualify predicate offense for 288(a) to: conviction. This bill was introduced and defeated in committee last year.

4/9/05: Failed passage in Public Safety Committee.

4/12/05: Reconsideration granted. No further action as of 6/7/05 | further action on companion bill # 1484]

SVP OUT PATIENT PLACEMENT

S.B. 383 MALDONADO 2/17/05

O.C. TO OPERATE OUTPATIENT

This bill would remove Lib Healthcare as CONREP provider SVP outpatient treatment program. Instead, the Department of Corrections would provide these services.

5/9/05: Passed Committee to Senate floor for 1st. reading.

5/26/05: Senate passes 38-0 assembly.

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W&I \$6600 UPDATES

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S.B. 722 DENHAM 2/22/05: PLAN FOR SECURE, REMOTE FACILITY

This bill would require the DMH to "formulate a plan for the establishment of a secure, remote facility to house and treat" SVP's released on conditional release. Within the text of the bill is the criticism of Liberty Healthcare being "hostile, unresponsive and callous to local law enforcement and families who live near placed predators. . ."

4/27/05: Amended to delete language above. Any granted probation on 288 required to have electronic monitoring. 5 year parole for any convicted of 288 on victim 12 years or less.

5/3/05: Hearing postponed by Public Safety Committee. No further action as of 6/7/05.

A.B. 893 HORTON 2/18/05: CONSIDERATION OF AGE AND PROFILE OF VICTIM

This bill would require that when placement for an SVP, the report must contain consideration to the age and profile of the offender's victims.

5/5/05: Passed Committee to Senate floor for 1st. reading.

5/27/05: Amended to add victim's next of kin concerns and proximity. Referred to public Safety Committee.

A.B. 1109 HORTON 2/22/05: COMMUNITY NOTICE

This bill would require that the DMH or Liberty Healthcare notify local officials and law enforcement 65 days prior; public comments shall be collected until 15 days prior; DMH and Liberty shall file responses within 10 days of the hearing.

4/19/05: Failed passage in Public Safety committee.

6/6/05: From Committee without further action.

A.B. 1603 HORTON 2/22/05: Report to legislature: SVP registration

This bill would require the DMH to report to the state legislature the total number of persons released on

conditional release and who have violated registration requirements.

4/16/05: Failed passage in Public Safety Committee. No further action as of 6/7/05.

A.B. 1152 LA SUER 2/22/05: Companion bill S.B. 10741 GPS TRACKING

This bill would require all "high risk sex offenders," who released on parole be monitored by GPS devices. The high risk category includes all qualifying predicate offenses.

4/20/05: Passed in Public Safety Committee; Set in Appropriations Committee. 5/25/05: In Appr. Comm. 2nd hearing, held under submission.

MEMORIES/FALSE MEMORIES

By: R. Lefort

Scientists now have pinpointed how the imagination can make false memories. Volunteers laying in a magnetic resonance imaging scanner were shown and told to picture each item. For half the words, a photograph of the matching object was flashed. Afterwards, volunteers listened to a random sequence of words corresponding either to photographs, to objects they were only told to imagine, or to items neither seen nor imagined. When volunteers falsely remembered seeing photographs of objects they had only imagined, brain regions critical to generating images became highly activated. Mental images created by these areas leave traces in the brain that are later mistaken for objects actually perceived, suggest researchers at Northwestern University in the October Psychological Science. Charles Q. Choi, *Sci* Scientific American, Jan. 2005, at p. 29 [www.sciam.com]

EYEWITNESS ACCURACY

By: R. Lefort

"People don't always accurately recall what they see, even when the stakes are huge." When "[w]itnesses compare one person to another in a

line-up, they decide who looks most like the perpetrator," says Gray Wells, an Iowa State University psychology professor and leading reform advocate. "That seems like the reasonable thing to do. The problem is if the real perpetrator is not in the line-up, there's still somebody who looks more like the perpetrator than others. That person is at great risk."

... some psychology experts question whether existing studies provide enough support for sequential line-ups." Joshua Marquis, District Attorney of Oregon's Clatsop County, is more willing to support reform known as: "double blind," in which the police officer conducting a line-up doesn't know which one is the actual suspect.

And what of wrongful convictions based on false memory? "Has it happened? Yes." . . . "We know, in general, that erroneous eyewitness identification are the largest single cause of wrongful convictions," Says Rob Warden, director of Northwestern University's Center on wrongful conviction.

"Ultimately, eyewitness identification are so inaccurate that there's a question about whether they even ought to be admissible in court," Mr. Warden adds pointing out that lie detector tests - generally considered to be 85% accurate - aren't admissible in most American courts."

However, Mr. Logli, President elect of the National District Attorneys Association, "acknowledges the ultimate challenge facing the legal system's approach to the criminal line-up," "I don't know how we're going to make it perfect." A bid to change how ID suspects/criminal line-ups get a makeover. The Christian Science Monitor, Wed., Dec. 8, 2004

"Erroneous eyewitness identifications are the largest cause of wrongful convictions." Rob Warden, Continued on page 8.

STRATAGY

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involuntarily confined under SVPA Statutes. Washington and Illinois. On January 13, 2005, in Hargett v. Baker, (No. 02 C 1456, ILL. DC.), a Federal Court in Illinois held that although some conditions and treatment provisions at the Joliet Treatment and Detention Facility (TDF) for "sexually violent predators" raised serious constitutional concerns, and specifically that practices of using cell confinement were unconstitutional, injunctive relief was appropriate because the institution had changed many of the policies that allowed for the constitutional concerns to prevail prior to the lawsuit, which was filed in February 2002 by the American Civil Liberties Union on behalf of four residents in the TDF. Their claims, described in a news article, were being housed in poor conditions, failure to provide adequate mental health treatment, strip-searches after visiting with their families, being forbidden to go to canteen by themselves, and being given limited exercise.

The decision rendered by Judge Harry D. Leinenwber, found many of the constitutional infirmities, including strip searches and a prison like environment, were all mitigated by changes made to the policies "[j]ust prior to trial, and even after trial started." For example, although the Judge found that a prior policy governing "the practice of locking patients in their rooms without appropriate professional oversight is unconstitutional," he concluded this "[b]ecause the TDF policy made the requisite showing that the new SMS policy cures the defects in the prior state policy, Plaintiff's demand for injunctive relief is denied with respect to this and all other claims." [ibid.] Similarly, the State of Washington has a SVPA that was challenged as to conditions of confinement and adequate treatment.

Judge Dwyer ordered moines to be held in a fund when the state failed to obey his orders and injunctions. Finally, at the end, the state was given back all the money because the state was deemed to have made a "Good Faith Effort" to improve the conditions complained about.

I hate to be the one to say it, but, its going to get alot worse before it gets any better. Mean while, when you have something to complain about, write it up. File complaints, send incident reports to Latham & Watkins, give them the evidence that we need to bury this place. Everything takes time. Have patience.

Complaining, giving-up, becoming uninvolved, only wins the case for our captors. Don't get into situations that cause us to be characterized as deserving what we are getting. None of us do.

EYEWITNESS ACCURACY

Continued from page 7

Center on Wrongful Convictions, Northwestern University."

PLEASE HELP US OUT

Echoes of the Gulag is mailed throughout California and the U.S. All this costs \$\$\$. Any donation, no matter how small is important to us. Donations can be check, money order or stamps. Send any donation to: John Olson, P.O. Box 3293 Central Point, OR. 97502

Message from John O. it's time that you, who love to read this paper and submit articles to it try to support the Gulag some.

Bits & Pieces

If your commitment is not the primary purpose of confinement, but equality for treatment, then why is treatment not absolutely required while confinement absolutely is?

"Absolute power corrupts, absolutely." In 1999, our Governor Arnold Schwarzenegger stated, that 95% of the people need to have their lives controlled.

Absent Comrades In Memoriam

ECHOES ask everyone, everywhere to pause for a brief moment each day and remember, with kindness, each of these, our 26 Absent Comrades.

Robert Cleveland	1998
Jim Davis	1/23/1999
Colman	2000
Franky Copper	2000
David Stanbury	5/10/2001
Donald Lockett	1/23/2001
Edward Samard	5/10/2001
Charles Rouge	5/29/2000
Larry Goddard	6/02/2001
Dean Danforth	7/27/2001
Lloyd Johnson	2002
Wayne Grayhall	2002
Greg Bowen "Blugg"	7/04/2002
Patrick Dushan	3/11/2003
Robert Algerin	3/15/2003
Tim McClanahan	3/15/2003
Wayne Porter	3/18/2003
Carl O'Dowd	12/11/2003
Elmer Beck	4/07/2004
Dave Genick	8/23/2004
Yinbios Joe	12/04/2004
Corwin Welby	12/13/2004
Ross Washington	1/30/2005
Rehnet Bishop	2/07/2005
Alton Robinson	8/19/2005
Robert Canfield	8/29/2005
Gerardo Sanchez	9/24/2005

Released from this oppressive prison by the Compassionate Hand of God.

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

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