

Russell J. Hatton  
1111 Hwy 73  
Moose Lake, MN 55767

March 21, 2020

Governor Tim Walz  
1008 Summit Ave.  
St. Paul, MN 55105

Re: WE DEMAND THE IMMEDIATE RELEASE OF CERTAIN CATEGORIES OF MEN AT THE FACILITY

Dear Governor Walz:

In the “Joint Statement from Elected Prosecutors on COVID-19 and Addressing the Rights and Needs of Those in Custody,” 31 of the nation’s Prosecutors have stated:

... little attention is being paid to the millions of people in the most overcrowded conditions that are ripe for the spread of this contagious and deadly virus: the people behind bars in America’s jails, prisons, and immigration detention centers.

The letter enclosed mentions the “...cash-based pretrial detention system, which keeps hundreds of thousands of people in jail prior to any determination of guilt...” We fall into this category of “pre-conviction”<sup>1</sup> detainees because we are being held for crimes we are presumed to commit. The Minnesota Sex Offender Programs in Moose Lake and St. Peter must be included in this discussion.

Clinicians no longer hold groups and modules here. However, this has not lowered their likelihood to spread COVID-19. The men are compelled to have one on one meetings with their clinicians, even sitting on the same couches to have these meetings. Clinicians should stay home. With COVID-19 spreading rapidly, all of the citizens in these facilities and the surrounding area are highly susceptible.

There are at least 4 categories of men at the facilities that should be released:

1. ELDERLY MEN: The oldest man we have at the facility is 89 years old. Alpha and Beta units [Moose Lake site] are mostly elderly men and they are also throughout the general population. Several of these men are suffering terminal illnesses. If these men get COVID-19 with the kind of medical services we have, their chances of survival are minimal. These men should be transferred to anywhere they are more likely to find adequate health care.
2. MEN IN CPS. The 88 men that have reached CPS status and are considered to have

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<sup>1</sup> “Sex Offender Civil Commitment to Prison Post-Kingsley” Copyright 2018 by Arielle W. Tolman  
Printed in U.S.A., Vol. 113, No. 1, *Arielle W. Tolman*

worked to the highest stage of treatment before Provisional Discharge (PD). These men do not pose a threat to the community and should be released immediately.

3. JUVENILE OFFENDERS: These men only offended when they were still children. At least 5 have received Full Discharge in the last few years. Some of which were not even in treatment. The courts released them because they are naturally not dangerous. These individuals should be released immediately.
4. MEN WITHOUT CONVICTIONS: at least 12% of this population consists of men who have no criminal record at all. These men do not pose a threat to the community. They should be released immediately to lower the spread of COVID-19.

We are urging you, Governor Walz, to listen to the professionals and immediately discharge those that do not pose a risk to the public, as we have identified above:

A study by Minnesota Department of Corrections Director of Research Grant Duwe concluded that “nearly two thirds of these offenders [detained at MSOP] 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 to the 700-plus people who are committed, we can conclude that over 400 human beings are being held unconstitutionally because of the MSOP’s intentional thwarting of the duration limits.<sup>2</sup>

Also, CATO University said:

“The MSOP knows that there are Class Members who meet the reduction in custody criteria or who no longer meet the commitment criteria but who continue to be confined at the MSOP.” *Karsjens*, 109 F. Supp. 3d at 1164.<sup>3</sup>

...several of the individuals confined in the MSOP no longer meet the requirements for commitment and the Respondents agree that they can be safely released into society. To overlook this reality is to ignore this Court’s command that “a State cannot constitutionally confine without more a nondangerous individual who is capable of surviving safely in freedom.” *O’Connor v. Donaldson*, 422 U.S. 563, 576 (1975).<sup>4</sup>

Civil Commitment has prevented less than 1% of all reported sex offending that would have otherwise occurred without civil commitment.<sup>5</sup> The recidivism rate for the men at this facility is not high enough to justify keeping those identified in the four categories above. In addition,

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<sup>2</sup> “Brief of Law Professors as Amici Curiae in Support of Petition for Writ Of Certiorari,” Eric S. Janus, Professor of Law MITCHELL HAMLIN SCHOOL OF LAW, 875 Summit Avenue St. Paul, MN 55105 Telephone: (651) 290-6345 Email: [eric.janus@mitchellhamline.edu](mailto:eric.janus@mitchellhamline.edu), citing Grant Duwe, “To What Extent does Civil Commitment Reduce Sexual

Recidivism? Estimating the Selective Incapacitation Effects in Minnesota,” 42 J. Crim. Justice 193, 201 (2013). (Doc. No. 427 (February 20, 2014 Order) at 67 n.48 (citing Doc. No. 410 ¶ 2, Ex. 1, at 8).)

<sup>3</sup> “Brief for the Cato Institute and Reason Foundation as *Amici Curiae* in Support of Petitioners,” by Bidish Sarma and Ilya Shapiro, June 22, 2017, p. 7.

<sup>4</sup> *Ibid.* at 17

<sup>5</sup> “A Study of the Efficacy of the Sexually Violent Predator Act In Florida,” Daniel Montaldi, PhD, p. 853

releasing those who are not a danger to the public will save the state of Minnesota millions which can be used to combat the spread of COVID-19. Court of Appeals Judge Edward Randall in June 2014, said:

Our resources, the taxpayers' money, would be better spent on... programming in the community... Do the math: 698 at \$120,000 a year equals \$83,760,000; 698 at \$140,000 a year equals \$97,720,000. That is the present budget to warehouse people at MSOP... (internal citations omitted)<sup>6</sup>

COVID-19 will likely spread quickly if it enters MSOP. Please do not allow us to be the "forgotten" as the prosecutor's letter warns against.

Sincerely,



Russell J. Hatton



Daniel A. Wilson

cc: Governor Tim Walz, Liaison to the Governor, Attorney General Keith Ellison

Encl.

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<sup>6</sup> *In the Matter of the Civil Commitment of: Eric John Eischens*, 2014 Minn. App. Unpub. LEXIS 622, A14-0013, June 23, 2014. These are old numbers. The current total is closer to \$106 million, but the point is the same.

SCN 9

4-1-20

Dear Garnett & Golden

please find enclosed the letters  
OCEAN sent to Gov. Tom Wise.

Can these be posted a just future  
com.?

Thank you for all your  
support and inspiration!!

The other documents, and data  
is being collected and we'll get  
it mailed to you hopefully soon.

Thank you!

Paul J. ~~Howe~~