

## Defining Sexually Violent Predators for Civil Commitment of Violent Predators

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### Abstract

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In 1999 the state of Texas in the United States passed an act for the Civil Commitment of Sexually Violent Predators Act within its Health & Safety Code (Chapter 841, Title 11) which mandates highly supervised involuntary treatment for certain sex offenders with a behavioral abnormality. While court records clearly describe the sex offender's history of criminal acts, the more challenging question for the jury is whether or not a behavioral abnormality exists. Although forensic experts may provide a diagnosis as part of their evaluation, the diagnosis itself was not the defining factor leading the jury to decide if the defendant is in need of commitment. Because behavioral abnormality is a legal term, and not a psychological disorder, the person's behavior in the context of their sex crimes is the overriding factor. This paper describes the dictates of the law and examines how behavioral abnormalities have been viewed by the jury through an inspection of selected court records pertaining to sex offenders civilly committed by this act. The reasoning behind the Appellant Court decisions is presented as it further establishes the elements of behavioral abnormality.

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**Keywords:** sex offenders, civil commitment, involuntary commitment, sexual predators, behavioral abnormality

### 1.0 Introduction

Sex offenders represent a special type of criminal. Most sex offenders have a low recidivism rate compared to other criminals (Hanson, 2002; Lussier, Deslauriers-Varin, & Ratel, 2010; Meloy, 2005). However, for those who do re-offend sexually, they can have a high number of victims, and their re-offense behavior may persist over several years (Langan, P. A., Schmitt, E. L., & Durose, M. R., 2003; Lussier, 2005; Lussier, Deslauriers-Varin, & Ratel, 2010; Prentky & Lee, 2007). Regardless of their recidivism potential, all of their offenses are considered especially heinous in the eyes of the public. The demand by the public to manage sex offenders restrictively can be seen with the Adam Walsh Child Protection and Safety Act and other sex offender community notification programs (H.R.4472, 2006; Zevit, 2006). In addition to criminalizing their acts, we have medicalized their behavior as well. Similar to the alcoholic and drug addict who commit crimes, we strive to punish and treat the sex offender at the same time. Certainly, sex offenders deserve to be punished for their crimes, and many require long term treatment to control their deviant behavior. However, sex offenders and their crimes vary greatly. Because of the sensitivity and enduring harmful effects their offenses have on victims, society needs to find better ways to contain, control, and hopefully eliminate sexual abuse. But this has been difficult to accomplish, especially with a minority of highly predatory and potentially violent sex offenders. To deal with these offenders, many states within the United States have amended criminal and civil procedures to provide additional layers of control. At the time of this writing 20 states, the District of Columbia, and the Federal government have instituted involuntary civil commitment procedures for sexually violent predators (ASTA, 2010). The underlying premise is similar to the rationale used to civilly commit psychotic individuals in state hospitals who pose a threat to self or others due their mental illness. The psychotic symptoms of those with mental illness are often very pronounced and obvious, such as active hallucinations, bizarre delusions, or a history of suicide attempts. The difference with sex offender commitments is that their disorder is vaguely defined, and their "symptoms" are rarely obvious until they come to light in the courtroom. Although Sexually Violent Predator (SVP) commitment procedures differ somewhat from state to state, essentially they are very similar.

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As a sex offender approaches the end of his or her prison sentence, a civil commitment hearing may be convened to determine if the offender poses a danger to the community due to a behavioral abnormality. If so, the sex offender is committed to a treatment program, typically in a secure facility, to undergo assessment and counseling until such time that he/she is no longer a danger (McLawsen, Scalora, & Darrow, 2012).

While on the surface this sounds like double jeopardy, several court cases have upheld the practice, providing precedence for the order. Most influentially was *Kansas v. Hendricks* (1997) which acknowledged that a sex offender could have a disorder that contributes to deviant behavior that puts people at risk, and due to that risk, the person needs treatment. In 1994, the state of Kansas enacted the Sexually Violent Predator Act, which established procedures for the civil commitment of persons who, due to a "mental abnormality" or a "personality disorder," are likely to engage in "predatory acts of sexual violence." (Kan. Stat. Ann. § 59-29a01 et seq., 1994). The State invoked the Act for the first time to commit Leroy Hendricks, an inmate who had a long history of sexually molesting children, and who was scheduled for release from prison shortly after the Act became law. Hendricks challenged his commitment on, "substantive" due process, double jeopardy, and ex post facto grounds. Kansas Supreme Court agreed with Hendricks, but the state appealed to the Supreme Court of the United States which upheld the Act. In doing so, the court emphasized:

- a) Freedom from physical restraint is not absolute.
- b) States have in certain narrow circumstances provided for the forcible civil detainment of people who are unable to control their behavior and who thereby pose a danger to the public health and safety.
- c) Commitment is not double jeopardy because the Act does not implicate either of the two primary objectives of criminal punishment: retribution or deterrence.

The U.S. Supreme Court explained that because the commitment hearing is to determine if there is a behavioral abnormality, it is not concerned with culpability for prior criminal conduct. Likewise, because the confinement due to civil commitment is for treatment and safety concerns; it does not have the goal of punishment. As the court expressed in a previous case, *United States v. Salerno*, 481 U. S. 739, 746 (1987), "The mere fact that a person is detained does not inexorably lead to the conclusion that the government has imposed punishment. The State may take measures to restrict the freedom of the dangerously mentally ill." In a follow up case, *Kansas v. Crane* (2002), the Supreme Court attempted to clarify the definition of 'behavioral abnormality' by stating that a person did not need to have any control what-so-ever over his behavior, but did acknowledge that the lack-of-control determination had to be more than just "difficult." The *Hendricks* and *Crane* cases were predominant in Texas drafting its SVP civil commitment act and its later revisions.

## 2.0 Civil Commitment of Sexually Violent Predators in Texas

In 1999 Texas passed an act for the Civil Commitment of Sexually Violent Predators Act within its Health & Safety Code (Chapter 841, Title 11). The provisions of the act placed the burden on the state to prove beyond a reasonable doubt that the person is:

1. A sexually violent predator
2. With a behavioral abnormality that makes him/her likely to engage in a predatory act of sexual violence

In order to insure public safety, a person placed in SVP civil commitment is under intensive supervision and monitoring. In the creation of the SVP act, the Office of Violent Sex Offender Management (OVSOM) was tasked by the legislature to establish surveillance and control procedures. To this end each person is assigned a case manager who is responsible for frequent face-to-face meetings with the predator, home and work visits, follow-up with treatment specialist about his or her progress, and coordinating GPS monitoring with Department of Public Safety (DPS) representatives assigned to OVSOM. If someone is noncompliant with treatment or conditions of supervision, the individual may be arrested by the DPS representatives and charged with a 3<sup>rd</sup> degree felony (<http://www.ovsom.texas.gov/>; Myer, 2003). Initially, those committed were allowed to return to their homes for outpatient treatment and supervision if the location did not violate the conditions of their commitment, e.g. living near a school. However, in 2005, the 79<sup>th</sup> Texas Legislature passed SB 912 requiring SVP commitments to be housed in a facility approved by the OVSOM. These residences typically are half-way houses or similarly highly monitored facilities. Since its inception, the OVSOM has increased the number of patients under supervision by about 20-40 per year. By FY2015, the OVSOM was providing services for 253 individuals (Biennial Report-OVSOM, May 5, 2015).

### **3.0 Civil Commitment Procedure**

#### **3.1 Review of Records**

In practice, Chapter 841, Title 11 mandates that the Texas Department of Criminal Justice (TDCJ) review all incarcerated sex offenders 16 months prior to release to identify those who have more than one sexually violent offense. The victims may be strangers, acquaintances, or family members. Drawing from the Texas Penal Code, a sexually violent offense is defined as:

- Indecency with a Child by Contact
- Sexual Assault regardless of age of the victim
- Aggravated Sexual Assault regardless of victim's age
- Aggravated Kidnapping with the Intent to Violate or Abuse the Victim Sexually
- Burglary of a Habitation with the Intent to Violate or Abuse the Victim Sexually
- Sexually Motivated Capital Murder
- Any attempt, conspiracy, or solicitation of the above

#### **3.2 Review of Cases**

After these individuals have been identified, and prior to their release from custody, their cases are reviewed by a multidisciplinary team composed of representatives from TDCJ, Victim Services, Department of State Health Services (DSHS), Department of Public Safety, and members of the Council on Sex Offender Treatment (CSOT). The team reviews an average of 35 cases per month. To assist the team, several licensed psychologists and psychiatrists are under contract with TDCJ to conduct mental health evaluations and risk assessments. If behavioral abnormality is suspected, the team refers the case to a Special Prosecution Unit which will proceed towards civil commitment (Health and Safety Code, Title 11, Chapter 841; <http://www.ovsom.texas.gov>).

#### **3.3 The Commitment Proceedings**

The commitment proceeding may be tried before a judge or jury who is charged with answering two questions beyond a reasonable doubt:

1. is the person a repeat sexually violent offender?
2. does the person suffer from a behavioral abnormality that makes him/her likely to engage in a predatory act of sexual violence?

If the answer is “Yes” to both questions, the person is ordered into the Outpatient Sexually Violent Predator Treatment Program (OSVPTP).

The answer to the first question is a rather straight forward record search of convictions and type of offenses committed. If more than one crime was committed that was listed among the sexually violent offenses within the Texas Penal Code, the person can be labeled a repeat sexually violent offender. The more challenging question for the judge or jury is whether a behavioral abnormality exists. Unlike other patients committed to state hospitals due to severe mental disorders such as schizophrenia or bipolar disorder, civilly committed sex offenders are typically high functioning. Their mental health diagnoses tend to be based on symptoms related to personality disorders, paraphilias, psychopathy, and minor mental health problems (Elwood, Doren, & Thornton, 2010; McLawsen, Scalora, & Darrow, 2012). It should be noted that Behavioral Abnormality, as defined in this context, is a legal term and not a medical diagnosis. Although the clinical experts may provide a diagnosis as part of their evaluation, the diagnosis itself is not the defining factor leading the judge or jury to decide if the defendant is in need of commitment. The person's behavior, in the context of their sexual acts, is the overriding factor. In Texas, the Act defines Behavioral Abnormality as “... a congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person”(Health and Safety Code, Title 11, Section 841.002; Texas Civil Commitment-Outpatient Sexually Violent Predator Treatment Program, May 2009). This definition leaves great latitude to the judge or jury in their examination of the offender's character and actions. Especially unclear is what affects a person's emotional or volition capacity.

## 4.0 Method

In order to obtain a sense of how behavioral abnormality has been viewed by the judge or jury, a sample of cases from the Texas appellate court records were selected. The criteria used to select cases was based on the extent and details of the case presented in the record, including the description of the sex offenders' crimes, testimony of expert witnesses supporting or refuting the presence of a behavioral abnormality, and legal arguments related to the definition of behavioral abnormality.

### 4.1 Cases

The following cases represent a cross section of circumstances which provides an insight into the thinking behind the grounds for civil commitment.

#### **In re COMMITMENT OF Raymond Scott HINKLE (2011)**

Hinkle's arrests leading to his current conviction, and subsequently his SVP commitment hearing, included the sexual assault of an 18 year old high school girl. Hinkle was 22 years old at the time and asked the girl for a date. While on the date, Hinkle made sexual advances which the girl refused. Hinkle forced the girl to perform a sex act on him and then coerced her into intercourse. Afterwards he urinated on the victim's car. Although he claimed the sex was consensual, he pled no contest to the charge and received a 15 year sentence. While he was released on bond for the first offense, he befriended another 18 year old girl. Similar to the first offense, the girl refused to comply with his sexual demands and he raped her. In the days following, he left threatening phone messages on her answering machine. Again he pled no contest and received a 15 year sentence. In addition to these rapes, Hinkle had been arrested or convicted of burglary of habitation twice, criminal mischief, driving while intoxicated, weapons possession, escape, theft by check, and two physical assaults on different girlfriends. The psychologist assigned to complete the evaluation testified that Hinkle had a personality disorder that resulted in irresponsible behavior. In addition to committing crimes while on probation, he failed to pay probation fees or arrive for mandatory appointments. He failed to maintain steady employment, denied the existence of a child he had fathered, and he was fired from a job for "being too hung over" to go to work. The psychologist further described Hinkle's personality as manipulative, impulsive, narcissistic, and containing the elements of a pathological liar. Part of the evaluation included actuarial risk assessment tools including the Psychopathy Checklist-Revised (PCL-R) and two sex offender specific risk measures, the STATIC-99 and the MnSOST-R. Hinkle scored well above the cut-off score for psychopathy and was in the moderate risk range for sexual deviancy. The psychologist, a man, observed that Hinkle tried to control the interview and became hostile at times. Conversely, when a female psychiatrist interviewed him, she noted that he displayed superficial charm and flattery. She concluded that "Hinkle would establish a relationship but become dangerous if rejected."

Overall, Hinkle appeared to exhibit the characteristics of a psychopath with a well-rounded chronic criminal career in which rape was a sideline. The court concluded that Hinkle's personality constituted a behavioral abnormality that made him likely to engage in future sexual predatory acts. He was ordered into the OSVPTP.

#### **In re COMMITMENT OF Robert C. GRUNSFELD(2011)**

In contrast with Hinkle, Grunsfeld was older and had no serious crimes other than the sexual assaults. Grunsfeld took offense to the prosecutor calling him a "wolf in sheep's clothing." She explained to the jury how his rape victims initially saw him as "well-mannered, well-spoken, charming, and good-looking." The prosecutor contrasted this persona with his core personality as being "cunning, manipulative, and violent." Grunsfeld used a stun gun, rope, mace, handcuffs and other weapons to control his victims while repeatedly assaulting them physically and sexually. He assaulted three victims and attempted to rape a fourth woman within seven months. The expert witnesses called to evaluate Grunsfeld described his behavior as being sexually sadistic with no concern for the consequences to the victim. The question that arose in this case was whether Grunsfeld had control over his behavior. His assaults appeared planned and deliberate, in which case Grunsfeld argued he could monitor and manage his actions without commitment supervision. The jury concluded that Grunsfeld had serious difficulty in controlling his behavior based, at least partly, on the fact the he committed two additional sexual assaults while out on bond from the first offense.

Grunsfeld argued that:

1. Experts' opinions are conclusory in that they are opinions and had no supporting evidence in which to come up with their conclusions.
2. Evidence is insufficient to show lack of control.
3. Actuarial tests are not appropriate measures of behavioral abnormality.

He asserted that neither statistics nor professional experts can predict future behavior beyond a reasonable doubt. Just because he is similar to a "group" of people, does not mean he will always act like them. He further attacked the experts' opinion that he could not control his behavior, because it was shown that he planned his offenses. He argued that planning is a part of being in control.

In reply the court said it is up to the jury to determine the credibility of expert witnesses and the evidence they present. A lack of control could be inferred by the jury from Grunsfeld's behavior by committing two other rapes while on bond for the first one. As for the appropriateness of actuarial tests, again the jury has the duty to weigh the credibility of the manner in which experts come to their conclusions. More specifically, it was acknowledged that actuarial tools were used in this case according to the expert's training and accepted standards for his field. In conclusion, a jury can reasonably make a decision beyond a reasonable doubt by weighing the testimony of experts, their assessment results, and consideration of the defendant's past behavior.

### **In Re COMMITMENT OF Daniel ALMAGUER (2003)**

The question about how much control sex offenders should have over their behavior was addressed in Daniel Almaguer's case. He had been convicted of aggravated sexual assault of two children under the age of nine. Over time, there had been at least ten separate sexual assaults on these victims. He was sentenced to twenty years for each victim, to be run concurrently. During the hearing, the State's expert diagnosed Almaguer as a Pedophile with Antisocial Personality Disorder within the psychopathic range. As such, he would have difficulty controlling his sexual urges. On appeal Almaguer argued that the State should have instructed the jury to find specific proof of serious difficulty in controlling behavior. The Appeals Court disagreed that such an instruction was needed because it is wholly implied within the trial court's instruction, "Do you find that Daniel Almaguer suffers from a behavioral abnormality that makes him likely to engage in a predatory act of sexual violence?" The jury was further informed that behavioral abnormality included a condition that affected the person's emotional or volitional capacity...to become a menace to the health and safety of another person. Referring to previous cases establishing the constitutionality of the Act, the court supported the reasoning that persons of common intelligence could understand and apply the definition (see *In re the Commitment of William P. Browning*, 2003). The jury in this case determined that Almaguer had difficulty controlling his behavior due to emotional defects, and he was a threat to the public. "A person's serious difficulty with controlling his behavior is implicit in the jury's finding that a person suffers from an emotional or volitional defect so grave as to predispose him to threaten the health and safety of others with acts of sexual violence" (*In re Commitment of Almaguer*, 2003).

### **In Re COMMITMENT OF Daniel BOCANEGRA Jr. (2013)**

In this case, the question of volition was examined closely. Bocanegra pleaded guilty to rape in 1973 and again in 1982. After released on parole in 1999, one of his conditions was to participate in a sex offender treatment program. While in this program and under parole supervision, he molested his step-daughter thirteen times and was returned to prison on a new charge of Indecency with a Child. During this incarceration, he received a prison disciplinary report for sexual misconduct. At the end of his sentence in 2007 he was examined by three experts, two psychologists and one psychiatrist, in his SVP commitment hearing. All three diagnosed him with antisocial personality disorder and a general paraphilia (sexual deviancy). Bocanegra claimed he was not violent because he had not killed anyone. Furthermore, his past behavior did not reflect his current personality. He admitted to being "selfish and narrow-minded" when younger, but with age he had grown more mature and responsible for his conduct. Testifying for the State, a forensic psychologist conducted a review of police, court, prison, and victim records. These records suggested the possibility of another six to nine victims who had not reported the crimes, in addition to the three for which he was sentenced. On the actuarial risk scales, he scored within the moderate to high risk level. The State's psychologist cited the following risk factors which lead to his opinion that Bocanegra would continue to be a threat in the future:

- a) Received a disciplinary report for sexual misconduct during his most recent incarceration.
- b) Did not complete the sex offender treatment program, in part because he re-offended while enrolled.

- c) Prison and parole supervision had not stopped his sexually deviant behavior.
- d) He targeted victims who were strangers as well as relatives.
- e) His sexual offenses spanned a thirty-one year period.
- f) He had a history of various degrees of violent and non-violent crimes.

A forensic psychiatrist also concurred that Bocanegra had not reformed and his level of risk remained high.

The third expert, a clinical psychologist hired by Bocanegra, asserted that even though Bocanegra's history has been one of sexual deviancy, "[h]is volitional and emotional capacity is intact." His offenses were infrequent and spread over the course of three decades. The defendant's psychologist also pointed out positive factors that could possibly reduce future risk: (1) he had capable work skills and a good employment history, (2) he has family support, (3) he demonstrated remorse for his past crimes, and (4) he is willing to restart sex offender treatment. While acknowledging that Bocanegra has the diagnosis of antisocial personality disorder, the psychologist pointed out that Bocanegra was not a psychopath, and older ex-offenders are less likely to re-offend. Due to these factors, he believed that the State has failed to prove beyond a reasonable doubt that Bocanegra suffers from a behavioral abnormality at this time.

The appellant court again acknowledged that juries must weigh the information presented by all the experts in formulating their conclusions, which they did in this case in deciding in favor of commitment. The Appellant Judges affirmed that jurors have the authority to define volitional and emotional capacity based on the testimony presented.

#### **In re COMMITMENT OF Clarence Dewayne BROWN (2012)**

This case goes directly to the question of what is sufficient to support a decision beyond a reasonable doubt by the jury. It also further clarifies the emotional and volitional elements of the Act. Between 1988 and 1996, Brown was arrested for five cases of sexual assault, three of which resulted in convictions. Nevertheless, reports from all five complainants revealed a similar sequence of events and pattern of behavior. The first allegation resulted while Brown was on probation for aggravated assault of a police officer. This case appeared to be no-billed. Less than a year later, he was sentenced to fifteen years for sexual assault, but was released on parole after eighteen months. The third offense occurred in 1994, while still under supervision, but was dismissed when the complainant withdrew her cooperation from the investigation. The last two offenses occurred within a month of each other about a year after the third offense. Although Brown stated that the sexual relations were at least "initially" consensual, all five victim reports described a similar pattern of behavior that resulted in rape. Indeed, one of the state's experts described them as serial type offenses. Brown, while using an alias, would entice the women to get into his car. Sometimes the promise of drugs or alcohol was used. Instead of driving to an agreed upon location, he took them someplace more remote. Initially he said it would be over if she would just kiss him, but the assaults ended in rape. Although Brown refused to be interviewed by the mental health experts assigned by the State, his previous statements recorded during disposition and in past records (including notes from the sex offender treatment program, SOTP, in which he had recently participated) were examined. The experts testified that Brown's statements about the offenses "varied greatly" from those of the victims. Statements by SOTP therapists indicated that throughout treatment he continued to minimize the full extent of aggression and harm caused to the victims, and that anger towards women was an underlying persistent theme. This misogynic attitude was threatening enough to have him removed from one of the treatment groups by a female therapist. The experts also described Brown as living an antisocial lifestyle. His risk levels to sexually reoffend based on the Static-99R and the MnSOST were moderate-high to high. Although not labeled as a psychopath, he was seen to have psychopathic traits such as being strongly manipulative and a pathological liar. In response, Brown asserted that there was insufficient evidence to support a finding beyond a reasonable doubt that he had trouble controlling his behavior or that he was likely to engage in predatory behavior in the future. He argued that he was in control of his behavior when he committed the offenses. As such, there was no lack of emotional or volitional capacity. Brown also appealed the fact that his expert witnesses were not allowed to testify. The Appeals Court cited the fact that Brown refused to be interviewed by the state's experts, and per the rules stated in the code, such a refusal bars the use of Brown's experts to testify, and his refusal can be used as evidence against him. It could also be a cause to have Brown to be held in contempt of court.

In making their decision, the Appeals Court referred to an expert's general definitions of emotional capacity and volition. Emotional capacity was defined as how one feels, whereas volitional capacity is concerned with how one solves problems and weighs the risks and benefits when deciding what to do.

The expert explained that as part of his examinations, he tries to identify any mental condition that influences someone's decision-making and emotional processing abilities. Based on historical records and related evidence, it would be reasonable to conclude that Brown suffered from a paraphilia and personality disorder that would affect his emotional and/or volitional capacity.

The court agreed, citing that Brown did not control his sexual deviancy even while under supervision, and he continued to minimize the harm he has done to victims, lacked victim empathy, and struggled with anger towards women. In light of this evidence the Appeals Court agreed that "a rational jury could have found beyond a reasonable doubt that Brown has a serious difficulty controlling his behavior because of a behavioral abnormality."

## 5.0 Conclusions

A major focus of this paper was to clarify what is meant by a "behavioral abnormality" in the context of determining civil commitment of sexually violent predators. The legal definition of behavioral abnormality directs the court to look for a congenital or acquired condition that affects one's emotional or volitional capacity to commit sexually aggressive acts (Texas Health and Safety Code, Title 11, Chapter 841). While specific clinical diagnoses are left out of the definition, certain mental health conditions can imply impairment in and of themselves. These conditions are often offered as evidence of behavioral abnormality by expert witnesses. Paraphilias such as pedophilia and sexual sadism by diagnostic definition are hard to control. Personality disorders are also defined by their clusters of life long characteristics which influence one's behavior (American Psychiatric Association, 2013). A criminal with Antisocial Personality Disorder or Psychopathy traits tend to exhibit offending behavior on a repeated basis. Similarly, the reinforcing nature of certain paraphilias may reduce inhibitions normally present in other situations and increase the risk of further offending in situations offering the potential to act out sexual offenses. Examining the cases presented above, it is suggested that juries define a sexually violent predator with a behavioral abnormality as someone who displays one or a combination of the following over an extended period of time:

- 1) Paraphilia: pedophilia, sadism, or other forms of repeated sexual abuse (e.g. serial rape)
- 2) Antisocial Personality Disorder. This is especially true if the behaviors suggest traits of psychopathy as well.

A key component of the definition is an understanding of the degree of emotional or volitional (cognitive) control someone has over their behavior. It also appears that the court has been influenced by the past behavior of the sex offender. The arrest frequency, offense behavior while under probation or parole supervision, and sex offender treatment failure were cited as reasons to suspect a lack of volitional control as an underlying factor of behavioral abnormality. Finally, the judge and jurors listened to what the experts said about risk factors which suggested lack of control and future dangerousness. Likewise, when challenged under judicial review, the Appellant Court affirmed the ability of jurors to weigh the evidence of experts and the techniques they used to come to a decision beyond a reasonable doubt. The judges acknowledged that jurors can apply abstract concepts, such as behavioral abnormality and volitional control, to a specific case and render a decision.

The movement towards civil commitment of sex offenders is a controversial one. Only twenty states have attempted it. Texas continues to define how its treatment and public safety supervision goals can be accomplished simultaneously. It is likely that future legal challenges to the definition of behavioral abnormality will be made which may explain the concept differently. It is uncertain what future case law will have to say about this population of offenders, but it should be interesting to watch.

## References

- ATSA (2010). Civil Commitment of Sexually Violent Predators[online] Available: <http://www.atsa.com/civil-commitment-sexually-violent-predators>
- Biennial Report-OVSOM, May 5, 2015 [www.legis.state.tx.us/.../8271daf1-5cef-4a3f-8103-e8c189740969](http://www.legis.state.tx.us/.../8271daf1-5cef-4a3f-8103-e8c189740969)
- CSOT\_OSVPTP- Texas Department of State Health Services [online] Available: [www.dshs.state.tx.us/csot/csot\\_osvptp.doc](http://www.dshs.state.tx.us/csot/csot_osvptp.doc)
- American Psychiatric Association. (2013). Diagnostic and statistical manual of mental disorders(5<sup>th</sup> Ed.). American Psychiatric Publishing: Washington, D.C.
- Elwood R. W., Doren, D. M. & Thornton, D. (2010). Diagnostic and risk profiles of men detained under Wisconsin's Sexually Violent Person law. *International Journal of Offender Therapy and Comparative Criminology*, 54, 187-196.

- Hanson, R. K. (2002). Recidivism and age: Follow-up data from 4673 sexual offenders. *Journal of Interpersonal Violence*, 17, 146-1062.
- Hanson, R. K., & Bussière, M. T. (1998). Predicting relapse: A meta-analysis of sexual offender recidivism studies. *Journal of Consulting and Clinical Psychology*, 61, 646-652.
- Hanson, R. K., Morton, K. E., & Harris, A. J. R. (2003). Sexual offender recidivism risk: What we know and what we need to know. *Annals of the New York Academy of Sciences*, 989, 154-166.
- Health and Safety Code, Title 11, Section 841.002; Texas Civil Commitment-Outpatient Sexually Violent Predator Treatment Program, May 2009.
- H.R.4472, 109dCong., Adam Walsh Child Protection and Safety Act (2006).
- Langan, P. A., Schmitt, E. L., & Durose, M. R. (2003). Recidivism of sex offenders released from prison in 1994. Washington, DC: U.S. Department of Justice.
- Lussier, P. (2005). The criminal activity of sexual offenders in adulthood: Revisiting the specialization debate. *Sexual Abuse: A Journal of Research and Treatment*, 17, 269-292.
- Lussier, P., Deslauriers-Varin, N., & Ratel, T. (2010). A descriptive profile of high-risk sex offenders under intensive supervision in the province of British Columbia, Canada. *International Journal of Offender Therapy and Comparative Criminology*, 54, 71-91.
- McLawsen, J.E., Scalora, M. J. & Darrow, C. (2012). Civilly committed sex offenders: A description and interstate comparison of populations. *Psychology, Public Policy, and Law*, 18, 453-476.
- Meloy, M. (2005). The sex offender next door: An analysis of recidivism, risk factors, and deterrence of sex offenders on probation. *Criminal Justice Policy Review*, 16, 211-236.
- Meyer III, W. J., Molett, M., Richards, C.D., Arnold, L. & Latham, J. (2003). Outpatient civil commitment in Texas for management and treatment of sexually violent predators: A preliminary report. *International Journal of Offender Therapy and Comparative Criminology*, 47,396-406.
- Prentky, R. A. & Lee, A. F. S. (2007). Effect of age-at-release of long term sexual re-offense rates in civilly committed sexual offenders. *Sex Abuse*, 19, 43-59.
- Texas Civil Commitment-Outpatient Sexually Violent Predator Treatment Program (OSVPTP) Health & Safety Code, Chapter 841 (May 2009).
- Texas Health and Safety Code, Title 11, Chapter 841, Civil Commitment of Sexually Violent Predators.
- Zevit, R. G. (2006). Sex offender community notification: Its role in recidivism and offender reintegration. *Criminal Justice Studies*, 19, 193-208.

#### Court Case Citations

- Kan. Stat. Ann. § 59-29a01 et seq. (1994)
- Kansas v. Crane 534 U.S. 407 (2002)
- Kansas v. Hendricks*, 521 U.S. 346 (1997)
- United States v. Salerno, 481 U. S. 739, 746 (1987)
- In re commitment of Almaguer, 117 S.W. 3d 500, 505-06 (Tex.App.-Beaumont 2003, pet.denied.)
- In re commitment of Daniel BOCANEGRA Jr. (2013)
- In re commitment of Clarence Dewayne BROWN (2012)
- In re commitment of Robert C. GRUNSFELD (2011)
- In re commitment of Raymond Scott HINKLE (2011)