

ERIC TENNEN PRESS RELEASE (June 11, 2018)  
RE: WAYNE CHAPMAN

I want to begin by addressing the process that began this story – that of Mr. Chapman’s petition for release. There is absolutely nothing unusual about how Mr. Chapman’s case proceeded. It followed the same rules and process that countless other cases have. In fact, it is a process that has been in place for decades. I am often critical about how unjust and ineffective our civil commitment laws are. I believe the process is actually too restrictive, often resulting in the unnecessary detention of men who pose no risk to the public. Ironically, I now stand here in defense of this process.

In response to Mr. Chapman’s case, Governor Baker filed new legislation to “revamp” the civil commitment scheme. His legislation is a solution in search of a problem. Prior to Mr. Chapman’s case, countless men were released from civil commitment. Some after a trial, some despite experts saying they should not be released, and some, like Mr. Chapman, after experts agreed they should be released. If this process was somehow ineffective or resulted in the release of truly dangerous men, you would know.

You would know because there would be stories about it. The press only ever reports cases where persons reoffend. They do not report about all the persons who do not. And that is many. Not just many, but most. There are approximately 11,300 registered sex offenders in Massachusetts. Of those, there are approximately 2,700 registered Level 3 offenders (those deemed to pose a high risk to reoffend). But there are not 11,300 persons reoffending or even 2,700 reoffending.

Civil commitment is no different. A recent article in the Gloucester Times estimates that approximately 155 men have been released from civil commitment between 2009 and September 2017. Of those, 90 were released without a trial because two Qualified Examiners said they were not dangerous. – just like Wayne Chapman. The Department of Corrections does not keep track of whether or not they reoffend. Moreover, no one keeps track of how many people are proposed for civil commitment but are not actually civilly committed. That happens too, a lot. Many, many people are proposed for civil commitment but they are not committed because doctors say they are not dangerous or a jury declines to commit them.

But it is beyond doubt that these men are not reoffending. Because if they were, you would know. There are hundreds, if not thousands, of people who have been through some part of the civil commitment process. These people are not reoffending. That is not to say it never happens. No system is perfect. A very small percentage of men may reoffend. But sex offenders reoffend less than any other type of offender. Dr. Plaud will speak to this.

If they were reoffending, this outcry would have happened a lot sooner. Every now and then, there are stories about men and the danger they pose. But then the stories die down because no danger emerges. A few years ago, there was similar panic when Father Paul Shanley was released. He was released after two doctors evaluated him and said he was not dangerous. And two years later, he is living a quiet life without incident.

That there is now a sudden push to change this legislation is not a sign that the process is broken, it is an (understandable) emotional reaction to the news that Wayne Chapman was going to be released. But, unfortunately, smart, sensible policy does not normally arise from emotional responses. Like I said before, it is a solution in search of a problem. Because before the news of Wayne Chapman's release was reported, no one indicated there was a problem with the process. Governor Baker never once commented on our broken civil commitment process. Wendy Murphy was not holding press conferences to decry all the men being released. The press was not writing editorials about this and digging into the numbers.

Rather, we trusted the process over to experts. And we trusted experts because expertise is needed with these kinds of issues. It is disheartening to hear Governor Baker criticize the experts in this case without having read the reports, studied the psychological issues, or come to understand much about Mr. Chapman's case. But we live in an era where expertise is ridiculed instead of embraced. Experts are shunned because they are not telling us what we want to hear; they make us question our beliefs and therefore they must be wrong, not us.

I understand the emotion that accompanies the potential release of someone like Wayne Chapman. No victim will ever feel any comfort when their perpetrator is released. In fact, I doubt any victim ever feels comfortable when any perpetrator is released. We now recognize the long-standing harm that being a victim can have in ways we never did before. We are getting better at respecting the needs of victims and trying our best to accommodate them in these matters.

I understand why Wayne Chapman's victims never want him to be released. I have never attempted, and will not attempt, to change how they feel because I know their feelings are sincere and valid. But everyone should understand that Mr. Chapman was given a sentence, which he served. He was then civilly committed under a process we all accept. And that same process allowed for his release.

The most prevalent thing I have heard is that the process is broken because no process would ever allow someone like Wayne Chapman to be released. But a process that does not allow for someone's eventual release from civil commitment would be unconstitutional. If we are going to have civil commitment then we must accept that it cannot be permanent. If it is permanent, it is not civil commitment; it is a life sentence.

On behalf of the victims, Wendy Murphy brought an appeal to the Supreme Judicial Court trying to intervene in this accepted process. Again, while I understand that Wayne Chapman's victims want a voice in this case – and while all victims probably want a voice in the case of their perpetrators – the law is not set up that way. The Single Justice of the Supreme Judicial Court recognized that and summarily dismissed Ms. Murphy's appeal. While she is still trying to keep her appeal alive, I have little doubt the Court will summarily dismiss it again. And, despite the Department of Correction's misgivings about Wayne Chapman's release, it too recognizes that there was nothing unlawful about the process. Even Governor Baker's new proposed legislation is not aimed at changing anything about which Attorney Murphy complains.

This brings me to Mr. Chapman's new charges. First of all, I do not represent him in that case. While I continue to represent him on the civil commitment case, he is being represented by a wonderful, talented, and experienced attorney in Ayer, Melissa Devore. I have been in close contact with her. I wanted to make sure she understood my side of the process as she prepares to defend Mr. Chapman. I will work with her in any capacity she needs. But she is driving the bus in his criminal case.

I will not speak to the specifics of his criminal case. I can say the following. Mr. Chapman absolutely denies doing what he was charged with. On his behalf, I and Attorney Devore absolutely deny it. Like all things with Wayne Chapman, the public has only been given some of the information. The public has been given allegations, rhetoric, and reasons to panic; what the public has not been given are facts. As the case progresses, facts will emerge that I believe will paint a clearer picture of exactly what happened.

I will note that in the 41 years spent in custody, Mr. Chapman was never accused of anything sexual. Not even a disciplinary ticket. It is only in the last few months that the first allegation emerged and then, only on the eve of his release, that he was formally charged in court. Please also keep in mind that for the last three years, Mr. Chapman has been housed at the medical unit within the Department of Corrections. His condition has become progressively worse. He is unable to care for himself; he cannot be independent; he struggles to do much, including dressing himself. He has a neurological disorder that will not improve. It is only in this state of medical decline that anyone has accused him of wrongdoing in the last 41 years.

I can also say that it was clear from the moment the news broke about Mr. Chapman's release that the powers that be did not want him released; at the very least, they did not want to appear as if they supported his release. Governor Baker took the extraordinary step of questioning the rule of law and sowing doubt about a lawful process. Instead of respecting a lawful outcome, he openly disagreed with it and said Mr. Chapman should not be released.

And then, lo and behold, as his release neared, the Department of Corrections proudly announced that they had participated in a process that resulted in Mr. Chapman being charged with a new offense. This charge assured his continued detention.

We should all be skeptical and cautious when the government openly criticizes a lawful process and then somehow manages to avoid the result they did not want. That is a dangerous precedent.

In my representation of Mr. Chapman I have received many nasty messages, some wishing harm on my family. I have never defended Mr. Chapman's past actions. I do not defend what he did. I defend him. I defend his rights. I defend him against the government. I do that on his behalf on behalf of the public. Because if we do not defend the process in these situations, we give the government the green light to accomplish its goals by any means necessary. We should all be weary of that; we should all be skeptical of that.