

Workman, Justice, concurring:

I concur with the ultimate conclusion of the majority. The Appellant Goff was found guilty of sexual assault in the first degree and sentenced to 15 to 35 years of imprisonment. I agree with the majority's finding that this sentence was constitutionally permissible and not unduly harsh in light of the nature of Goff's crime. The purpose of my concurrence is to emphasize the need for rehabilitative treatment for sex offenders in the prison system in order to reduce recidivism rates among sex offenders. Researchers have found that recidivism rates for child sex offenders are alarmingly high.¹

¹Jean Peters-Baker, *Challenging Traditional Notions of Managing Sex Offenders: Prognosis is Lifetime Management*, 66 UMKC L. Rev. 629, 646 (1998).

“The primary goal for managing sex offenders should be to protect society [especially children] from new sexual assaults . . . [h]owever, a goal of protecting society requires the less popular task of providing assistance to offenders so they may learn to manage their deviant behavior.”² Accordingly, one of the best methods for accomplishing the goal of protecting society includes providing treatment for the sex offender.³ Evidence suggests that “[c]orrectional facilities have not kept up with the increasing demand for sex offender treatment.”⁴ Courts face a difficult challenge in situations as the one before us because researchers have found that “courts cannot yet rely on sexual offender treatment programs to reduce recidivism.”⁵

Goff contends that he should be placed in the Anthony Center instead of imprisoned in a state penitentiary in order to receive the appropriate rehabilitative treatment. However, as the majority found, Goff has not demonstrated to the Court that the Anthony Center provides any particular rehabilitative treatment that he cannot receive in the correctional institution in which he is incarcerated. The defense failed to link Goff’s specific rehabilitative needs to the programs offered at the Anthony Center. Goff

²*Id.* at 667.

³*Id.*

⁴ Peter Finn, *Do Sex Offender Treatment Programs Work?*, *Judicature*, March-April 1995, at 250.

⁵*Id.*

presented no evidence to demonstrate that rehabilitative services are not being provided to prison inmates. Further, this Court is not in a position to provide specialized rehabilitation services to individual convicts.

Tragically, as Goff correctly asserted in his brief, he will enter the prison system at the young age of eighteen and, upon release, will be more “prone to violence than he presently is.” When Goff is released from prison, he will be very likely to offend again unless he receives proper rehabilitative counseling and treatment. This Court explained in syllabus point two of Cooper v. Gwinn, 171 W.Va. 245, 298 S.E.2d 781 (1981), that “[i]nmates incarcerated in West Virginia state prisons have a right to rehabilitation[.]” The clinical psychologist who examined Goff found that he had the potential for rehabilitation and he clearly has a right to such rehabilitation. Unfortunately, the reality is that Goff will not be rehabilitated in prison and most offenders who are incarcerated will be released back into society.

For this reason, it is imperative that our current prison system place greater emphasis on designing rehabilitative treatment programs, especially for sex offenders, so that there will be less likelihood that the offender will re-offend.

I am authorized to say that Justice McCuskey joins me in this concurrence.

