

Sex Offender Supervision

2000 Report to the Legislature

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Background of this report: During the 1999 legislative session the issue of providing increased funding to lower the caseload size for probation officers (POs) who specialize in supervising sex offenders was raised. Dodge-Fillmore-Olmsted (DFO) Community Corrections was appropriated \$150,000 per fiscal year for FY 2000-01 for a pilot project to increase supervision of sex offenders on probation, intensive community supervision (ICS), supervised release, or intensive supervised release (ISR) by means of caseload reduction. The grant is to be used to reduce the number of offenders supervised by officers with specialized caseloads to an average of 35. This is a one-time appropriation, and DFO must report on the outcomes of this pilot project by January 15, 2002.

As part of the Omnibus Crime Bill, the following was also passed:

Sec. 16. Study on Supervision of Sex Offenders.

(a) The commissioner of corrections is directed to study issues related to the caseloads of probation officers supervising sex offenders. This study shall focus on recommendations to improve the current supervision of sex offenders to increase public safety and reduce the risk of reoffense by sex offenders. These recommendations shall address methods of supervision, use of specialized sex offender caseloads, the optimum number of offenders to be supervised by each probation officer, the availability of suitable housing for sex offenders, and other relevant factors.

(b) In conducting the study, the commissioner shall consult with representatives from community corrections act counties, representatives from county probation officer counties, state parole and probation agents, law enforcement officers with experience dealing with sex offenders, a treatment professional trained in the assessment of sex offenders, and a victim services professional.

(c) The commissioner shall report by February 1, 2000, to the house and senate committees and divisions with jurisdiction over criminal justice policy and funding on recommendations resulting from the study.

The Department of Corrections (DOC) appointed a Sex Offender Supervision Study Group to assist in preparing a report containing recommendations to improve the supervision of sex offenders. The study group met on six occasions, and several subcommittees had additional meetings to develop the report background and make recommendations for consideration by the entire group and approval by the DOC. For membership of the study group, see Appendix A. The DOC acknowledges the contributions of the members of the study group and extends thanks for their dedication and hard work.

Report organization: The study group decided to define specific areas of study for the group and assign subcommittees to work on each area.

Methods of Supervision-Intensive Supervised Release (ISR)

Methods of Supervision-specialized caseloads

Optimum caseload size
Suitable housing for sex offenders
Classification and risk assessment
Sex offender supervision training
Probation and post-release programming funding

The basic organization of each report section is:

- a) Background
- b) Discussion. This includes identification of deficiencies within the system which the work group targeted with recommendations to improve the supervision of sex offenders, increase public safety, and reduce the risk of reoffense
- c) Recommendations
- d) Legislative initiatives required
- e) Projected cost of any initiatives

Sources of Information:

- *1999 Sex Offender Supervision Survey*. A survey of corrections administrators and POs who supervise sex offenders, conducted in Fall 1999. This survey was created to provide information for this report. Fifty-four jurisdictions responded, representing 82 of the 87 counties in Minnesota.
- *The Community-Based Sex Offender Program Evaluation Project: 1999 Report to the Legislature*.
- *Probation in Minnesota: Putting the Pieces Together. A Report of the Probation Standards Task Force*, December 1994.
- *American Probation and Parole Association (APPA) Issue Paper on Caseload Standards*

1) Methods of Supervision-Intensive Supervised Release

- a) Background: Intensive Supervised Release (ISR) has its roots in the Intensive Community Supervision (ICS) program. Legislation establishing ICS was passed in 1990 to allow offenders who would otherwise be incarcerated at a much higher expense to the state to be supervised intensively in the community. ISR was subsequently developed to use the same intense conditions to supervise high-risk offenders (identified as Public Risk Monitoring, or PRM cases) released from prison. Over the years there has been a shift of this program to focus almost exclusively on supervision of high-risk offenders on supervised release. Since the advent of community notification, ISR caseloads have begun to be increasingly dominated by Level 3 (high risk) and Level 2 (moderate risk) sex offenders.

ISR provides maximum community supervision of offenders through a four-phase process, usually for a one-year duration. Agents work in teams to be able to provide 24-hour supervision of offenders. Initially, offenders under ISR supervision receive a minimum of four face-to-face contacts with their supervising agent each week, including visits at the offender's home and place of employment. These contacts occur during the day or night, including holidays and weekends. Offenders may also be subject to curfews, electronic monitoring, and frequent alcohol/drug testing. Sex offenders are

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also required to participate in sex offender programming as a condition of their release. Conditions of supervision are relaxed progressively if the offender shows a positive adjustment.

Currently, ISR is provided by the DOC in 39 counties in Greater Minnesota and funded through state grants in five Metro area counties (Hennepin, Ramsey, Dakota, Anoka, and Washington). Arrowhead Community Corrections will begin an ISR program during calendar year 2000. There are 45 ISR agents with a maximum caseload of 15 offenders each, and the cost of the program is approximately \$19 per day, per offender. During the first two years of community notification, 262 sex offenders were released on ISR status. So far, no sex offenders have been rearrested for new felony-level sex offenses while under ISR supervision. The rigor of supervision practiced under ISR has also helped to allay the fears of community members when they are notified about the impending release of a Level 3 sex offender.

- b) Discussion: During the past three years, the proportion of offenders charged with a new felony or gross misdemeanor while under ISR supervision has consistently averaged less than 2 percent. ISR is a prudent manner in which to supervise those offenders judged to pose the highest risk to the public. Agents monitor offenders closely and hold them to strict standards of behavior. Increased supervision appears to enable ISR agents to intervene before offenders commit new offenses by enforcing release conditions, confronting negative behavior early and, if necessary, returning the offender to custody.

The study group identified the following deficiencies in the current ISR system: First, ISR is not available in 39 counties in the state. Because of this, not all sex offenders identified as PRM cases and released can be supervised intensively in the community. Also, the metro ISR caseloads are under particular pressure. Hennepin County is able to place only 20 percent of their PRM cases on ISR because the number significantly exceeds program capacity. Approximately half of these PRM cases not placed on ISR are sex offenders who would be better supervised intensively.

Second, in sparsely populated, large geographical areas, it can be difficult for ISR agents to fulfill the current contact requirements as delineated in statute. A team of ISR agents might supervise offenders who live throughout a 10,000 square mile area of the state. Agents with this responsibility may not be able to use their time efficiently because they are required to spend so much time traveling from one place to another.

- c) Recommendations:
- i) **Expand ISR statewide and increase ISR capacity in Anoka, Dakota, Hennepin, Ramsey, and Washington counties.**
 - ii) **Modify rules of ISR to allow rural counties more flexibility in imposing ISR on offenders. Allow increased electronic monitoring, group supervision, and treatment attendance in lieu of a portion of the required face-to-face contacts.**

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- d) Legislative initiatives: The legislature would need to appropriate funding as detailed below. The legislature would also need to change statutory language to allow more flexibility in ISR conditions.
- e) Cost: A proposal to expand the ISR/ICS program statewide and to increase capacity in Metro counties is estimated to cost \$3,000,000 for FY 2001. Such an increase would involve the continued cooperation of the DOC and CCA regions.

2) Methods of Supervision-Specialized caseloads:

- a) Background: Sex offenders have always been a part of probation/parole caseloads. In the past, it was not uncommon to have only one or two sex offenders on a caseload at any given time. As reporting of sexual offending and prosecutions of offenders increased, so did the presence of sex offenders on caseloads.

CCA counties have developed specialized supervision units to deal with specific populations (e.g., sex offenders, administratively supervised offenders) and also to deal with specific tasks (i.e., presentence investigations). Caseload sizes, levels of supervision, and supervision techniques utilized within these units are widely varied. Where geographically practical, the DOC has also developed specialized caseloads. However, in rural counties where there is less geographical density of sex offenders, specialized caseloads have generally not been seen as practical.

In the mid-1970's, Arrowhead Regional Community Corrections developed programming for sex offenders who were serving jail time at the Northeast Regional Correctional Center (NERCC). It was believed that it would be more efficient to have all of the sex offenders in the NERCC program supervised by the same probation officer (PO). This allowed the PO to gain a better understanding of the dynamics underlying offense behavior, which aided in the supervision of the offenders when they returned to the community. Group supervision teams of male and female POs were developed to continue reinforcement of the treatment process as the offender was released from NERCC and began to be supervised in the community.

In the mid to late 1970's Dodge-Fillmore-Olmsted Community Corrections developed a model to provide treatment for sex offenders on probation locally, rather than expecting that the offenders would drive to the Twin Cities area where treatment was concentrated. This involved development of local sex offender treatment providers and close collaboration with supervising agents.

As sex offender caseloads continued to increase and sex offender treatment programs developed around the state, more corrections agencies developed specialized sex offender caseloads. In the early 1990's Anoka and Dakota Counties developed specialized programming for sex offenders. Each county developed unique methods of providing group supervision for sex offenders in conjunction with court-ordered sex offender treatment. In 1994, Todd, Wadena, Crow Wing, Morrison and Aitkin counties adopted the Dodge-Fillmore-Olmsted model for their communities.

As the agents providing the specialized sex offender supervision in these CCA counties learned more about the sex offender population, the need to continue learning more

and seeking ways to improve their programming grew. This led to informal meetings between POs and treatment providers from different jurisdictions. Out of this, in 1995 developed the Minnesota Network for the Supervision and Treatment of Sex Offenders. This informal organization has grown to involve professionals from state correctional institutions, community-based sex offender treatment programs, other POs working with sex offenders and professionals from other disciplines interested in understanding sex offender services. "The Network" meets on a quarterly basis and provides the professionals a chance to network, learn new practices, share information, develop ways to improve the system and gain support from colleagues.

Since 1995, Hennepin, Stearns, Ramsey and some DOC county offices have formally developed specialized sex offender caseloads.

According to the 1999 Sex Offender Supervision Survey, 16 jurisdictions¹ have developed specialized sex offender caseloads. This survey reveals that jurisdictions with specialized caseloads tend to have smaller numbers of clients assigned to each agent. Specialized agents use a greater variety of supervision techniques, and offenders have a wider range of treatment options. For example, 100 percent of agencies with specialized caseloads utilize the polygraph as an adjunct to treatment and supervision, compared with less than 50 percent of agencies without specialized caseloads. POs with specialized caseloads are also more likely to:

- use group supervision techniques
- conduct face-to-face visits with the offender at work (as well as at the offender's home)
- utilize control techniques such as house arrest, electronic home monitoring, and curfews
- maintain closer contacts with sex offender treatment professionals.

- b) Discussion: Sex offender caseloads defined as "specialized" vary from jurisdiction to jurisdiction. Some agencies are able to assign POs to supervise caseloads consisting exclusively of sex offenders (probationers and supervised releasees). Other agencies do not have enough sex offenders under supervision to constitute a full caseload, but still assign all sex offenders within their jurisdiction to one PO. In the metro area, specialized supervision may result in development of teams of POs who not only have exclusive sex offender caseloads, but also specialize in one function (e.g., supervision of probationers only). The consensus of the study group was that it would not be possible for all jurisdictions to develop the same specialized model of supervising sex offenders.

However, there was also consensus that specialized caseloads can provide increased public safety by:

- Enhancing the supervising agent's knowledge of this unique population of offenders resulting in the imposition and enforcement of probation conditions which address the dynamics related to sex offender reoffense

¹ These jurisdictions include the following community corrections agencies: Rice, Rock-Nobles, Anoka, Dakota, Todd-Wadena, Central Minnesota, Arrowhead, Hennepin, Ramsey, TriCounty, Dodge-Fillmore-Olmsted, Kandiyohi and Stearns. They also include DOC Field Services in Benton, Steele, Lyon, Lincoln, Murray, Pipestone, Redwood, Renville, and Cottonwood counties.

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- Encouraging the formation of collaborative, multi-disciplinary networks which include professionals from probation, sex offender treatment, law enforcement, victim services organizations, child protective services, and schools

The study group identified the following deficiencies in current practices regarding specialized caseloads: First, agencies may have difficulty assigning POs to specialized caseloads because of the volume of other types of offenders under their jurisdiction.

Second, not enough data have been collected that would prove that specialized supervision reduces recidivism or otherwise improves public safety. There have not been uniform data collection efforts throughout the state, nor are there standardized outcome measures for sex offender treatment programs or corrections agencies.

c) Recommendations:

i) Agencies should continue to develop local specialized sex offender caseloads. Agencies should collaborate to develop regional specialized caseloads in areas where number of sex offenders supervised in any one agency is small and where combining forces with other agencies would provide better supervision.

ii) Develop, implement and fund standardized statewide outcome measures for both sex offender treatment programs and correction agencies.

d) Legislative initiatives:

i) No legislative action is necessary.

ii) Legislative action to provide funding would be necessary; however, costs are unknown at this time.

3) **Optimum caseload size:**

a) Background: The average caseload size for agents who supervise adult and juvenile sex offenders in Minnesota varies greatly. According to the 1999 Sex Offender Supervision Survey, caseload sizes for adults range from a minimum of 40 to a maximum of 173. Caseload sizes for juveniles range from a minimum of 20 to a maximum of 100. Jurisdictions with specialized caseloads (and which also tend to have greater numbers of sex offenders under their supervision) tend to have smaller caseload sizes. Some amount of specialization appears to lower caseload size for sex offenders.

It is noted, however, that requirements specific to supervision of sex offenders have made it difficult for agencies to maintain lower caseload sizes for agents who supervise sex offenders. A good example of this is supervision requirements imposed by Minnesota Statute 609.109, Subdivision 7 (see below).

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Minn. Stat. 609.109, Subd. 7. Conditional release of sex offenders.

(a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, or 609.345, the court shall provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release. If the person was convicted for a violation of section 609.342, 609.343, 609.344, or 609.345, the person shall be placed on conditional release for five years, minus the time the person served on supervised release. If the person was convicted for a violation of one of those sections a second or subsequent time, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

This statute has increased the average supervised release term for sex offenders by four and one-half years. This has dramatically affected the ability of some agencies to maintain lower caseload sizes for their agents who supervise sex offenders. Offenders being released from prison must be supervised closely, as they are generally a higher-risk group than offenders sentenced only to probation. The conditional release statute does not allow these offenders to be dismissed from supervision. Also, these offenders are subject to community notification, which has increased the PO's workload by requiring that more time and effort be expended in assisting an offender in acquiring a residence and in responding to public and law enforcement concerns about sex offenders.

- b) Discussion: Routinely, agents report that caseload sizes are too large to allow them to utilize all of the tools available to best supervise sex offenders in the community. There is no study as yet that conclusively proves that lower caseload size results in less recidivism among sex offenders. However, it is evident that large caseload sizes result in POs supervising offenders reactively rather than proactively.

A PO who maintains a specialized sex offender caseload describes it this way:

Managing a caseload of 100 sex offenders is like working in the emergency room of a hospital in a major city. One's professional duties are reduced to constant crisis management and a reactive relationship with our clients. When an emergency then arises, one phone call can result in several days of work on one case, while the rest of the agent's caseload does not receive the attention needed. With a caseload of 100, an agent's day is primarily spent responding to phone calls, trying to keep up with required paperwork, and meeting with clients only in one's office. Under these circumstances agents have few opportunities to verify the truthfulness of what the offender reports, and it is almost impossible to get out into the community to check on offenders where

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they live and work. An offender may appear to be doing well when he or she is in your office, while the real picture is very different.

Thanks to a pilot project grant provided by the legislature to reduce sex offender caseloads, as well as a grant for an intensive supervision program, Dodge-Fillmore-Olmsted Community Corrections has begun to be able to observe the benefits of caseloads averaging in the 30-35 range. There has been a marked increase in frequency of random home and job-site visits, greater ability to form quality relationships with offenders, victims, their families, criminal justice professionals, and the community at large. We have also seen a significant increase in "technical" violations as agents have focused attention on offenders based on progress in treatment and compliance with supervisory conditions. These violations are treated as opportunities to educate the offender, and to drive home the seriousness of the situation as well as remind them of the ultimate potential consequence of imprisonment. These early interventions serve to assist the offender in taking the many difficult small steps toward long-term behavioral change.

In the 1999 Sex Offender Supervision Survey, POs report that smaller caseload sizes would result in:

- An increase in the frequency and thoroughness of visits to the offender's home
- An increase in the frequency and thoroughness of visits to the offender's workplace
- Increased contact with collaterals (i.e., persons who are significant in the offender's life, such as family members, acquaintances, treatment providers)
- More thorough enforcement of probation conditions (e.g., no contact with minors, no use of alcohol or drugs, no use of pornography, etc.)

However, the consensus of the study group was that it would be impossible to identify an ideal caseload size number that would be appropriate to recommend as a statewide standard. We would echo the words of the American Probation and Parole Association (APPA), which has released an issue paper related to caseload size. This Issue Paper recommends against seeking a single "magic number" for optimal caseload size.

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The following are duties required of POs by statute:

1. Presentence Investigation
2. Sentencing guidelines worksheet
3. Sex offender registration and change-of-address
4. Notify law enforcement and victims if sex offender is granted a dispositional departure
5. Risk assessment
6. Assure DNA sample is collected
7. Approve and issue travel permits
8. Monitor restitution
9. Make mandated reports to Child Protection if warranted

Additionally, DOC or county policies require the following:

1. Write progress reports
2. Write violation reports if warranted
3. Conduct random alcohol/drug screening
4. Attend and testify at violation hearings
5. Make treatment referrals (sex offender, chemical dependency, mental health, etc.)
6. Issue arrest and detention orders for offenders who have violated probation or release conditions

"The search for the single 'magic number' for the optimal caseload size is futile, and counterproductive. It runs contrary to the current knowledge and practice in the field, and sets forth an unrealistic expectation that such a standard can be set, be achieved, and produce desirable results." APPA recommends that agencies adopt a workload model for case assignment and accounting.

Given all of the above, the study group came to the following consensus: A decrease in caseload size would enable POs to increase home visits, employment visits, and other face-to-face contacts with sex offenders. These increased contacts would enhance public safety by ensuring that offenders comply with supervision requirements, and would assist in the enforcement of predatory offender registration and community notification.

The study group identified the following deficiencies: First, in many jurisdictions, caseload sizes continue to remain at levels that allow only minimum supervision techniques. The group believes that it is in the interest of public safety to continue to fund caseload reduction in order to allow agencies to direct additional resources to the supervision of sex offenders who are on probation or supervised release.

Second, the group recognized the lack of a statewide sex offender workload tool to enable agencies to better assign caseloads. The group realizes that "sex offenders" tend to be treated as an homogeneous group, as if they are all the same sort of offender. However, there are great distinctions among offenders. A sex offender caseload may include a group of offenders who range from "hands-off" offenders such as exhibitionists or obscene phone callers, to incest perpetrators, to offenders who have molested children outside of the family, to stranger rapists who have used weapons to subdue their victims. Some of these offenders may have been in prison, while others may not even be eligible for prison based on their offense history. They cannot all be supervised the same. A good workload tool would take into account the

risk level posed by the offender, the offense level, and the needs and strengths of the offender.

c) Recommendations:

i) The legislature should continue to support and fund caseload reduction in order to enable agencies to assign needed resources to properly supervise sex offenders.

ii) A statewide sex offender workload tool should be developed to assist in assignment of appropriate caseload sizes.

d) Continued legislative action would be needed to continue funding caseload reduction. Section 5 of this report discusses the development of a risk assessment tool for offenders on probation or supervised release, which would be a major part of any workload tool.

e) Cost: The recommendation contained in the report of the probation standards task force (*Probation in Minnesota: Putting the Pieces Together, December 1994*) was for an additional \$41 million to fund an additional 564 FTE POs. As of FY2001, the legislature had allocated \$16.8 million of caseload reduction funding, or approximately 40 percent of the recommended amount.

4) Suitable housing for sex offenders

a) Background: Since the 1960's, the DOC has contracted with private non-profit halfway houses to provide transitional housing for offenders leaving prison. Originally, sex offenders were released to halfway houses just as any other offender might be. In the mid-1980s a collaborative venture between the MCF-Lino Lakes Transitional Sex Offender Program (TSOP) and metro area halfway houses (180°, ReEntry Services) resulted in a standard four to six month stay in a halfway house for sex offenders who had completed treatment while in prison. Eventually, length of stay decreased to 60 days as the prison population increased markedly and the number of halfway house beds remained constant.

The DOC currently has access to 185 halfway house beds. Of these, 135 are utilized by Work Release. Thus, 50 beds are available for DOC supervised releasees, of which sex offenders occupy 65 percent. The DOC does not currently operate any halfway houses.

It appears that community opposition to halfway houses prevents the establishment of additional privately-operated facilities. The study group is aware of instances where community opposition has prevented the expansion of existing halfway houses or the establishment of new transitional housing. While the number of beds available has not increased substantially, the number of releasees has. For example, in 1988, 213 sex

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offenders were released from adult correctional facilities, compared with 343 in 1998, an increase of more than 60 percent.²

The widespread shortage of affordable housing in Minnesota has only exacerbated the problem. Offenders identified as Level 3 under community notification find it almost impossible to rent housing. This tends to increase their length of stay in halfway houses, which only compounds the problem. Halfway houses limit the intake of sex offenders. Some do not accept sex offenders at all, while others accept only a small number of sex offenders designated as higher risk (Level 3). Finally, most halfway houses are concentrated in the metro area and they place restrictions on accepting sex offenders from outside of their home county.

- b) Discussion: The halfway houses with which the DOC contracts have been diligent at responding to both the needs of the DOC and the demands of the communities in which they are located. All of the halfway houses that accept sex offenders have sent key staff to attend DOC sex offender supervision training. This gives halfway house staff the same information available to POs, and assists in facilitating communication and maintenance of a consistent philosophy.

The most glaring problem is the need for approval and construction of new halfway houses, especially in areas of the state which currently do not have this resource (i.e., Greater Minnesota). However, there is also a need for other sorts of transitional housing for sex offenders. This would include "sober houses," where small groups of residents make a commitment to refrain from alcohol or drugs. The focus of attention resulting from community notification has made it difficult for some sober houses to accept sex offenders as residents. This is ironic, given that 70 percent of incarcerated sex offenders are chemically dependent or abusive.

The study group identified the following deficiencies: First, the construction of new halfway house beds has not kept pace at all with the number of sex offenders (and other high-risk person offenders) released from correctional facilities. Long-term solutions are needed to address this issue, both in the metro area and in Greater Minnesota.

Second, there is a need for a short-term solution to address the acute shortage of transitional housing today. The pressures associated with community notification and the current shortage of affordable housing continue to make it difficult for offenders to find housing. This makes the job of the PO more difficult, as much more time is expended in assessing and approving housing obtained by the offender.

- c) Recommendations:
 - i) **Construction of new halfway and transitional housing. The first step would be to utilize a recently formed DOC work group to assess the need for halfway houses and other transitional housing options, to examine the distribution of**

² These figures reflect the initial releases only of sex offenders with a governing sex offense (i.e., CSC 1 through CSC 4). The actual number of offenders released in 1998 who were subject to community notification was 464, which includes release violators and offenders with sex offense convictions whose governing offense is not a sex offense.

existing resources, and to identify obstacles. This group should also examine how other states have met these challenges. This task force would need to examine funding issues, issues of eminent domain, and to solicit the cooperation of counties and local jurisdictions in site selection for these facilities.

ii) The DOC should consider placing some offenders for whom housing is particularly difficult in county jails, work release, or in temporary housing on the grounds of the prison.

d) Legislative action would be necessary to fund the recommendations of the transitional housing study group. The cost is unknown at present.

5) Classification and Risk Assessment

a) Background: Risk assessment of sex offenders is a relatively new field, and has come to be dominated by actuarially-based risk assessment tools. These tools typically provide an estimate of the offender's likelihood of reoffense based upon a combination of variables found to be predictive of recidivism. The most prominent risk assessment tools include the Minnesota Sex Offender Screening Tool-Revised (MnSOST-R), the Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR), and the Static 99.

The DOC conducts a two-stage risk assessment of each offender released from incarceration. The first stage, completed 12 months prior to release, selects out the group of offenders considered to fit the criteria for commitment as a Sexual Psychopathic Personality or a Sexually Dangerous Person. Approximately 10 percent of sex offenders about to be released from confinement are believed to meet commitment criteria and are referred to the county attorney in the county of last conviction for possible further action. Approximately half of the sex offenders thus referred are ultimately committed. The second stage of risk assessment is the determination of a community notification risk level. The DOC is required to assign a risk level to each sex offender about to be released from confinement. The risk level assigned determines the amount of information which law enforcement may release to the community about the offender. Both stages of the DOC risk assessment involve the use of the MnSOST-R.

Currently, there is no systematic manner for assessing risk of sexual recidivism for sex offenders at the pre-sentence investigation or while they are on probation.

Project Pathfinder and Ramsey County have applied to the Center for Sex Offender Management (CSOM) for a grant to assist in developing a risk assessment process for offenders on probation and involved in community based sex offender treatment.

b) Discussion: The MnSOST-R is a validated, respected risk assessment tool that is used in several states and by the federal government. The MnSOST-R is based primarily on static variables; thus, an offender's score on this instrument tends to remain stable over time. Also, the MnSOST-R was developed and validated on a sample of incarcerated adult male offenders. Its applicability to other populations has yet to be determined.

There are currently some efforts underway in other states and Canada to develop a risk assessment tool that takes into account dynamic factors. These typically focus on variables such as cooperation with supervision (attendance at scheduled meetings, compliance with reporting requirements, offender attitude), employment stability, quality of relationships, drug/alcohol use, treatment completion, etc.

The study group identified the following deficiency: There is a need to develop a risk assessment scale on a probation population that is more inclusive of dynamic variables and that measures changes in sex offender risk level over time, especially while the offender is being supervised in the community. Currently, there is no dynamic risk assessment tool with demonstrated predictive validity that can be applied to sex offenders under supervision in the community.

c) Recommendation:

i) The DOC should collaborate with Ramsey County and Project Pathfinder in development of a risk assessment tool for offenders on probation or supervised release. This effort should also include other Community Corrections agencies and county probation departments. It could also include consultation with the state of Washington, which has utilized Minnesota's risk assessment instruments for several years.

d) No legislative initiatives are required to begin this process. It is anticipated that some state funding would be necessary to bring such a project to closure, however.

e) Cost: Because it is anticipated that efforts to begin development of such a risk assessment tool will begin immediately, it will be necessary for the DOC and other agencies to use existing staff and/or funding to accomplish this task. As the development process continues, it is anticipated that approximately \$250,000 would be needed to complete the development of a dynamic risk assessment tool.

6) **Sex offender supervision training**

a) Background: In 1989 the legislature enacted M.S. 241.67 Subd. 6 which requires that the DOC develop in-service training on the topic of specialized sex offender supervision. The DOC is required to "make this training available to all current and future POs who supervise or will supervise sex offenders on probation or supervised release." Only POs who have completed the in-service sex offender supervision training may be assigned to supervise a sex offender. Since the enactment of this legislation the DOC has provided training to approximately 1700 POs from throughout the state.

During 1990 the DOC provided several two-day training sessions throughout the state. Approximately 1000 POs attended and completed these training sessions. The content of this training was developed and presented by DOC staff from correctional facility sex offender programs as well as POs from Anoka, Hennepin and Ramsey counties.

In 1991 the DOC began conducting quarterly two-day training sessions. In recent years the training has been expanded to four days, which has provided time to include more

material regarding assessments, denial, and group supervision, as well as adding modules on victim issues, reoffense prevention, polygraph, registration, community notification and interviewing methodology. This also includes a full day targeted to issues specific to supervising juvenile sex offenders. The DOC has collaborated with staff from other agencies and organizations in developing and presenting the training and in developing a training manual. These organizations include Hennepin, Anoka and Ramsey Community Corrections, private agencies that provide sex offender treatment to offenders on probation, county victim services providers, and the Bureau of Criminal Apprehension (BCA). Approximately 150 POs receive introductory training each year. The training manual has been purchased by other states and is cited by the Center for Sex Offender Management (CSOM) as an example of a "best practices" training manual.

The National Institute of Corrections (NIC) has also recognized Minnesota's sex offender supervision training as a national model. DOC and Ramsey County staff have presented this training on behalf of NIC to POs from other states (New York, New Jersey, Pennsylvania, and Delaware). It has also been presented as a pre-conference training opportunity at the national Association for the Treatment of Sexual Abusers (ATSA) conference on two occasions. Burnet County, Wisconsin, purchased several of the training manuals from the DOC for use in their supervision practices.

Currently the training topics include: Introduction/History, Sex Offender Dynamics And Typologies, Denial, Presentence Investigations, Risk Assessment, Sex Offender Treatment, Psychophysiological Procedures (e.g., polygraph and plethysmograph), Working with Victims, Supervision Strategies, Reoffense Prevention, Family Reunification, Registration and Community Notification. Training is multi-media, multi-disciplinary, and includes two panel discussions (one comprised of sex offender treatment professionals and the other, sex offenders).

- b) Discussion: The basic sex offender supervision training appears to serve its purpose well. Not only does it provide attendees with a good understanding of vital topic areas, but it also introduces trainees to experienced professionals and begins the networking process.

The study group identified the following deficiencies in regard to sex offender supervision training: First, the current training program is basic training targeted at newly-hired POs who do not have experience in supervising sex offenders. POs who have already received this basic training have requested the development of more advanced training, geared toward POs who specialize in supervision of sex offenders.

Second, POs who have received the training in past years have not received the newest edition of the PO Training Manual.

- c) Recommendations:
 - i) **The DOC, in collaboration with professionals from other criminal justice agencies should develop advanced sex offender supervision training for POs interested in specialized sex offender supervision.**

- (1) Training needs would be informed by a survey of POs and administrative staff and would target areas identified as being of the highest priority.**
 - (2) Updated copies of the sex offender supervision training manual should be made available to all POs throughout the state.**
 - (3) The manual should also be published on the DOC website, and updated periodically.**
- d) No legislative initiatives are needed.
- e) Cost: The cost of this initiative could be borne by the DOC and the agencies involved in development. Attendance at such training would be voluntary and paid for by the agencies that send their POs to training.

7) Probation treatment programming funding

- a) Background: Minnesota Statute 241.67 provides funding for community sex offender programming for sex offenders on probation. This funding was first appropriated in 1990 for "pilot sex offender programming for adults and juveniles." Grants to provide sex offender treatment for offenders on probation are awarded through the request for proposal (RFP) competitive process. Total funding available for this purpose is \$1.55 million per biennium.

The total amount awarded for FY 1999 was \$774,000. The organizations awarded grants serve offenders in 23 Community Corrections Act (CCA) counties and 31 non-CCA counties. Services provided by the twenty-six grants awarded for FY 1998 include primary long-term sex offender treatment at locations throughout the state and some polygraph services

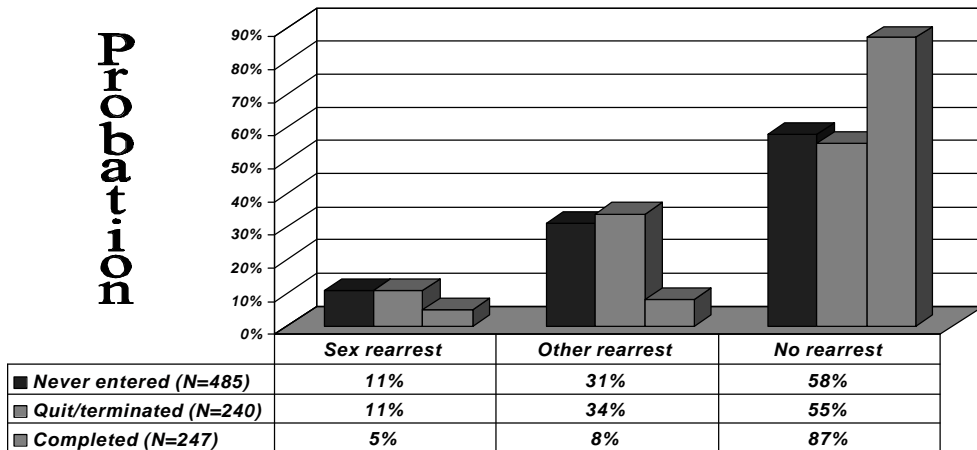
Long-term treatment programs vary in length from 9 to 35 months. Offenders who complete treatment spend approximately 17 months in treatment. The average contribution from state grant funds was \$1,100 per offender in long-term primary treatment in FY 1998. Some programs receive partial funding from counties³, as well as offender co-payments. The average offender co-payment was approximately \$600 per year. Approximately \$390,000 was collected from offender co-pays in FY 1998.

The total number of re-offenses for FY 1998 (as reported by grantees) was ten (five new sex offenses and five new non-sex offenses). This is a total reoffense rate of less than 2 percent as of July 1, 1999. The DOC has conducted a study that analyzes longer-term reoffense rates in detail (Community-Based Sex Offender Program Evaluation Project). A report on this study was released in November 1999 and indicated that the six-year recidivism rates of sex offenders placed on probation are about 5 percent for offenders who complete sex offender treatment and about 10 percent for offenders who enter and fail treatment or never enter treatment. See below for further detail.

³ For example, Ramsey County has budgeted more than \$400,000 for sex offender treatment for FY2000 and expects to exceed this target; Hennepin County expended more than \$350,000 for sex offender treatment in FY1999; and Dakota County spent \$81,500 in FY1999. It is noted that all of these counties require offenders to contribute to the cost of treatment.

Is completion of sex offender treatment while on probation associated with a decrease in recidivism? The graph below is taken from *The Community-Based Sex Offender Program Evaluation Project: 1999 Report to the Legislature*.

Sex Offender Treatment and Recidivism



•This sample consists of all sex offenders placed on probation in Minnesota in 1987, 1989, and 1992
 •Reoffense checks done in early 1999; average time at risk is 6.3 years for all offenders

- b) Discussion: Compared with many other states, Minnesota is fortunate to have some state funding to assist offenders in entering sex offender treatment while on probation. However, the amount of funding has remained constant since it was first appropriated in 1990 despite a 40 percent increase in the number of sex offenders on probation during that time. Efforts have been made to stretch the funding to cover as many offenders as possible and to require that offenders also contribute to the cost of treatment. The DOC has received consistent, forceful feedback from both treatment providers and POs throughout the state that funding needs to be increased dramatically.

Probation programming should approach the offender with a comprehensive approach directed at his/her successful transition and maintenance of non-criminal behavior pattern. This approach includes treatment, supervision, polygraph examinations and other technological assistance as needed. It may also include contact with family members and the use of community agencies and resources (e.g., mental health or chemical dependency treatment programs).

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An informal survey of treatment providers throughout the state has indicated that the actual costs of sex offender treatment range from \$3500 to \$5000 per offender, per year.

The study group identified the following deficiencies in the area of funding for treatment programming services for offenders on probation or supervised release: First, there has been no increase in state funding for sex offender treatment in nine years. Currently, sex offender POs and treatment programs are struggling to be able to accommodate the increasing numbers of sex offenders placed on probation with a condition requiring treatment participation and completion. In some areas of the state there are no local programs to which to send offenders. Also, current funding levels do not allow programs to readmit offenders who have already completed treatment but who are in need of additional services.

Second, there are two distinct funding streams for probation and supervised release offenders. Many offenders on supervised release status are in need of longer-term treatment than is currently available. It would be beneficial to erase this artificial distinction between these groups of offenders and allow treatment assignment based on need, rather than correctional status.

Third, feedback from POs and sex offender treatment providers consistently notes the positive effects of having polygraph examinations available as an adjunct to treatment programming. Current state funding is not sufficient to cover both treatment and polygraph needs.

c) Recommendations:

i) Probation and post-release programming should be extended to all areas of the state. Additional funding is needed in order to accomplish the goal of a statewide network of sex offender programming, and to allow for extended programming in individual cases when it is determined to be in the interest of public safety.

ii) The distinct funding streams for post-release programming and probation programming should be merged. This will address the situations where a provider and funding are available to provide services to a sex offender but he/she may not fit in the appropriate funding category, therefore services cannot be provided. The combination of both funding categories will simplify the process and maximize the use of funding.

iii) The use of polygraph examinations should be incorporated into all sex offender programming. The examinations would focus on better identifying the sex-offending pattern of the offender and would also assist in monitoring the offender's adherence to conditions of release.

d) Legislative action would be necessary to appropriate further funding to provide sex offender programming to all areas of the state. With a significant increase in funding (from the existing \$1100 per probationer per year and \$825 per supervised releasee

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per year to \$2500 per probationer/supervised releasee per year) as detailed below, the DOC could ensure that the funding for probationers and supervised releasees was merged and could require incorporation of polygraph examinations into programming.

- e) **Cost:** The cost of providing 18 months of sex offender treatment to approximately 450 adult and 300 juvenile probation sex offenders is estimated to be approximately \$1.9 million the first fiscal year and \$2.3 million the second fiscal year (a total of \$4.2 million for the biennium). This represents an increase of \$2.7 million per biennium, considering that the state already appropriates \$1.5 million per biennium for treatment of probationers. The cost of providing 12 months of post-release programming to approximately 400 adult and 50 juvenile sex offender on release status from correctional facilities is estimated to be approximately \$1.1 million the first fiscal year and \$1.1 million the second fiscal year (a total of \$2.2 million for the biennium). This represents an increase of approximately \$1.6 million for the biennium, considering that the state already appropriates \$600,000 per biennium for programming for supervised releasees. This programming would include two polygraph exams per year for each offender. The number of offenders in this programming may gradually increase as years progress due to the number of offenders returned to programming at later times in their supervision period. Consequently, the cost of the programming may increase accordingly.

8) Post-release programming funding

- a) **Background:** In FY 1994-95 the appropriation for sex offender post-release programming was \$156,000 per year. In FY 1996-97, this funding was increased by \$75,000 and in FY 2000-01 by an additional \$25,000 per year. In FY 1999 the DOC also transferred programming funds that were included in another budget area (halfway house funding for sex offenders) to the post-release programming funds which resulted in an additional \$31,000. This resulted in total funding available for the 00/01 biennium at \$287,000 per year.

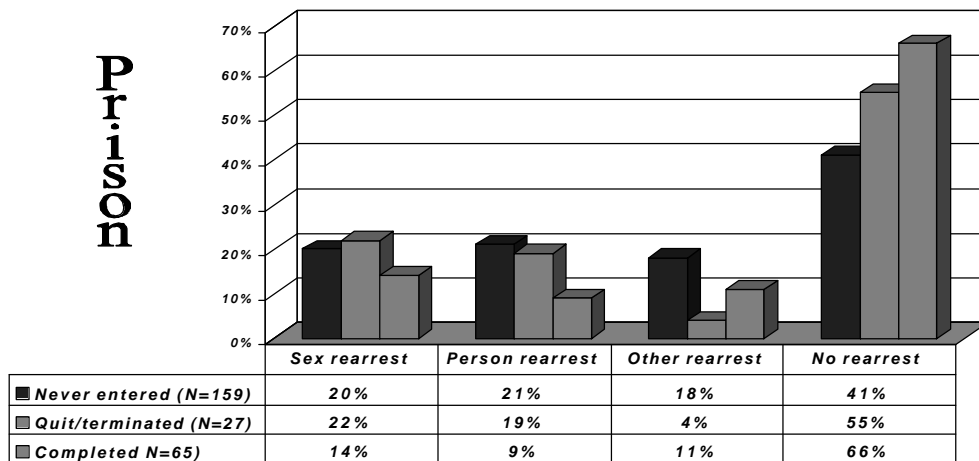
Statewide, in FY 1998 the account provided four to six months of post-release programming for 299 offenders at the average cost of \$825 per offender. Fourteen providers were contracted to perform the service. Current providers were selected through the RFP process and are located in the following areas: Minneapolis, Bemidji, Duluth, St. Cloud, Brainerd, Wadena, Mankato, Rochester, Dakota County, Virginia, and Willmar.

Post-release programming is not intensive or long enough to be considered sex offender treatment. It is programming that enhances supervision and gives the offender assistance in making the transition from prison to the community. The offender has the opportunity to use a support group and also has access to counseling professionals. This programming is required for most sex offenders leaving prison if it is available in the area where he or she is released. Many sex offenders who leave prison have not completed treatment while in prison (because sentence length was too short, refused to enter, quit, were terminated from the program, etc.) and consequently post-release programming is the only extended exposure to sex offender programming that they receive. On the other hand, offenders who completed treatment in prison are required to use post-release programming as treatment aftercare.

In many cases, the length and intensity of post-release programming are less than what is needed by the offender. This programming is limited by the need to distribute the funds across the state as much as possible in order to provide at least some post-

Is completion of sex offender treatment while in prison associated with a decrease in recidivism? The graph below is taken from *Sex Offender Treatment and Recidivism*, a research summary published by the Minnesota Department of Corrections in May 1999.

Sex Offender Treatment and Recidivism



- This is the sample originally studied by the Legislative Auditor in 1997 report on Recidivism of Adult Felons
- All sex offenders released from DOC in 1992, except for female offenders and offenders who were civilly committed
- Offenders who entered treatment were more likely to have a prior sex offense felony than those who never entered (38% vs. 17%)

release programming to as many communities as possible.

- b) Discussion: Minnesota is fortunate to have nationally-regarded sex offender treatment programs located in correctional facilities. These programs have demonstrated that completion of sex offender treatment is associated with a reduction in sex offender recidivism, despite the fact that the programs consistently focus treatment resources on higher-risk sex offenders (i.e., those with prior as well as current sex offense convictions). However, the fact remains that programming capacity is not high enough to allow all sex offenders to enter treatment while incarcerated. Also, not all sex offenders who enter treatment complete it. This means that many offenders leave prison still in need of sex offender treatment services.
- c) Recommendations: See Section 7 above.
- d) Legislative action: See Section 7 above.

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e) Cost: See Section 7 above.

Appendix A: Study Group Members

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MN DOC, Field Services

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St. Paul Police Dept., Sex Crimes Unit

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CORE Psychological Services