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County Responsibility in Civil Commitment Referrals:

Filing Petitions for Civil Commitment as Sexually Dangerous Persons/ Sexually Psychopathic Personality (SDP/ SPP) in 120 Days after Initial Referral from the Minnesota Department of Corrections

Department of Human Services Report
to the
2008 Minnesota Legislature

February 2008

Mandated by 2007 Minnesota Statutes, Section 253B.185, Subdivision 8.



Minnesota Department of **Human Services**

**Per requirement of M.S. 3.197, the cost of preparing this report was under
\$10,000**

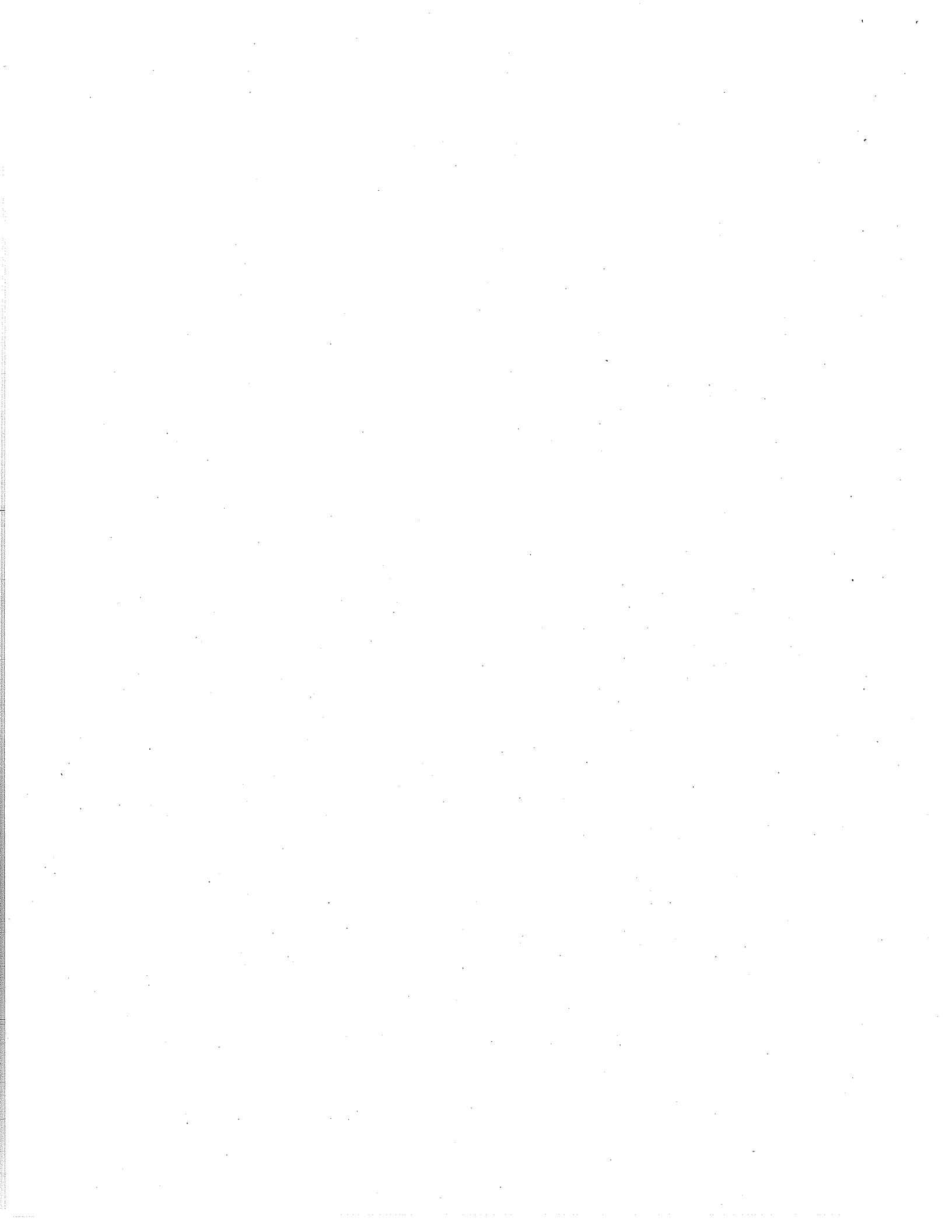
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State Operated Services Report to the 2008 Minnesota Legislature

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I. DEFINITIONS

Decision to file	the determination by the County Attorney that good cause exists to file a petition for civil commitment and the consequent action by the county or designee to file the petition for commitment with the court under Minnesota Statute 253B.185.
Decision not to file	the determination by the County Attorney that good cause to file a petition for civil commitment does not exist and whereby the county or designee does not pursue filing a petition for civil commitment with the courts.
Decision pending	any case where the County Attorney or designee has yet to determine the existence or absence of good cause to file a petition for civil commitment. This includes referral cases that are on hold and/ or referral cases that are transferred from one county to another county or designee.
Designee	the third-party representative requested by a County Attorney to research whether good cause exists to file a petition for civil commitment and or pursue the commitment petition on behalf of a county.
DOC	the Minnesota Department of Corrections.
Judicial districts	the 10 designated geographic regions in Minnesota (divided by counties) associated with at least one courthouse.
Metro Counties	the eleven counties in Minnesota located in the metro region. These counties include: Anoka, Carver, Chisago, Dakota, Goodhue, Hennepin, Ramsey, Scott, Sherburne, Washington, and Wright Counties.
Referral	an individual offender in the Department of Corrections system who is recommended to a County Attorney to for the purpose of filing a petition for civil commitment as a sexual psychopathic personality (SPP) or is a sexually dangerous person (SDP) pursuant to Minnesota Statutes Section 253B.185.
Transfer	an action by one county to recommend a case for civil commitment to another county or county designee by the county that received the initial case referral for civil commitment from the department of corrections. This includes actions that are a secondary referral from a county or county designee to another county or county designee.

II. BACKGROUND

During the 2007 session, the Minnesota State Legislature directed the Department of Human Services (DHS) to make an annual report to the legislature, by February 1, 2008, addressing the compliance of counties to Minnesota Statutes, section 253B.185, subdivision 8 (c) (see Attachment I). Minnesota Statute 253B.185 instructs counties to file petitions within 120 days of receipt of a preliminary determination from a court or a referral from the commissioner of corrections for the County Attorney or designee to file a petition for civil commitment. This preliminary report reflects referrals from the Department of Corrections (DOC) recommended in fiscal year 2007. Since the law went into effect on August 1, 2007, this report is a preliminary review of the new law in preparation of consecutive reports due each February because it covers the time period of July 1, 2006 to June 30, 2007.

After the end of the 2007 fiscal year, counties began working within guidelines provided by the Minnesota State Legislature to determine whether good cause under 253B.185 exists to file a petition. The data collected reflects the responsiveness of counties as of January 31, 2008. During FY2007, there were 174 referrals for civil commitment as sexually dangerous persons (SDP) and sexually psychopathic personalities (SPP) from the DOC to counties. As described by Minnesota Statute 253B.185, subdivision 8 (a), if and when good cause exists, the county attorney is to file a petition for civil commitment with the court 120 days after the initial referral from the Department of Corrections (see Supplement II).

This preliminary report also organizes the counties into their corresponding judicial districts to illustrate the responsiveness of the courts in this process (see Attachment II). Every fiscal year, the Attorney General's Office (AGO) anticipates responsibility for pursuing and filing petitions for civil commitment with the court when invited by the County Attorney. In FY2007, the AGO coordinated referrals recommended by attorneys from the 87 counties, except for referrals assigned to the following counties:

- Anoka County;
- Dakota County;
- Hennepin County;
- Olmsted County;
- Ramsey County;
- Saint Louis County;
- and Washington County.

Consecutive annual reports to the legislature reflect information from the previous fiscal year. For example, the February 1, 2009 report will represent referral recommendations by the DOC to counties initiated in FY2008. These consecutive reports will present civil commitment information by the individual county.

III. CONCLUSIONS

In fiscal year 2007, the Minnesota Department of Corrections (DOC) referred 174 DOC inmates to be civilly committed as sexually dangerous persons and sexually psychopathic personalities to the counties where the initial crime was committed. Figure 1, 2, and 3 describe where the 174 referrals for civil commitment were sent to in the Metro and Greater Minnesota areas. County Attorneys responded by either making a decision to file a petition, transferring the case to the county of residence of the individual, or determining that good cause does not exist to file a petition for civil commitment.

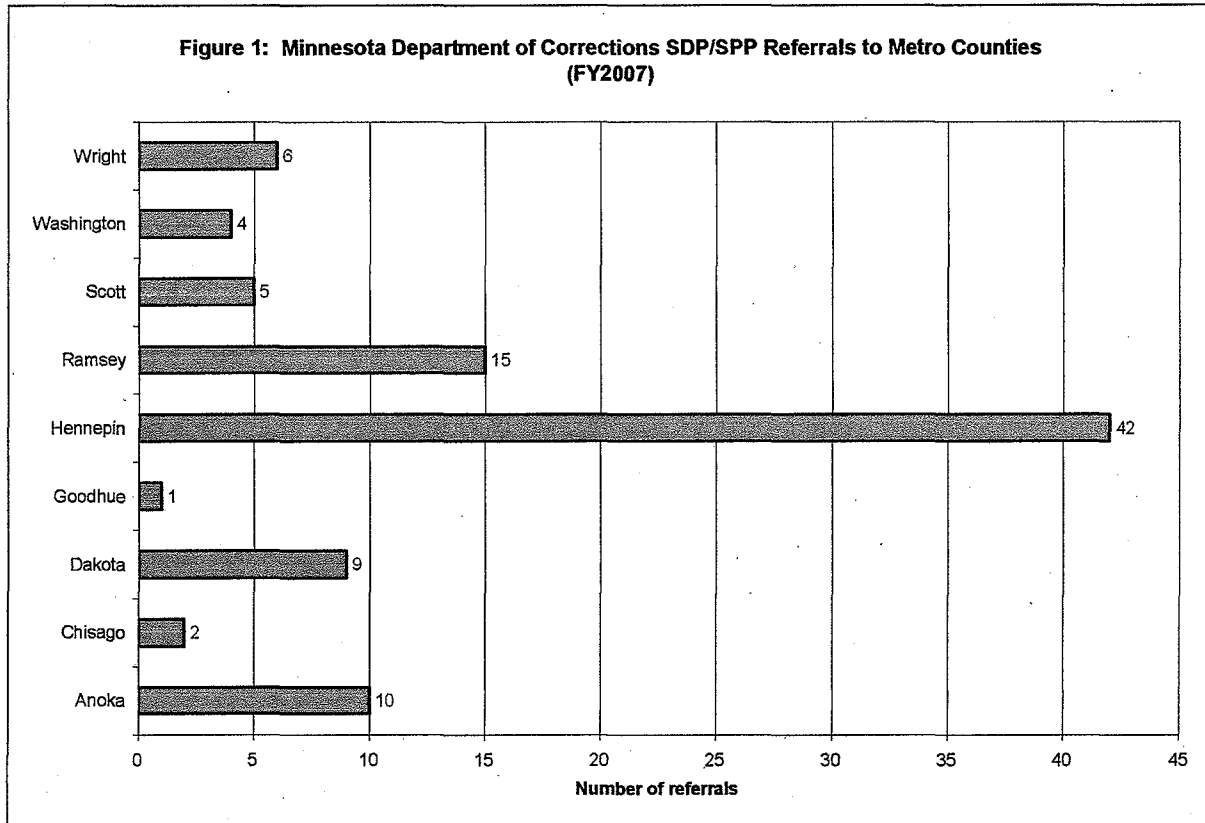


Figure 1: The Metro counties received a total of 94 referrals from the DOC in FY2007. Hennepin County received the greatest number of referrals – 42, where as Goodhue and Chisago counties received 1 and 2 referrals, respectively. Hennepin and Ramsey counties experienced a combined total of 57 referrals from the DOC in FY2007.

Figures 2 and 3: The counties in Greater Minnesota received a total of 80 referrals from the DOC in FY2007. Olmsted County received the greatest number of referrals of the counties in Greater Minnesota, and had the second highest number of referrals overall from the DOC in FY2007.

Figure 2: Department of Corrections SDP/SPP Commitment Referrals To Greater Minnesota Counties I (FY2007)

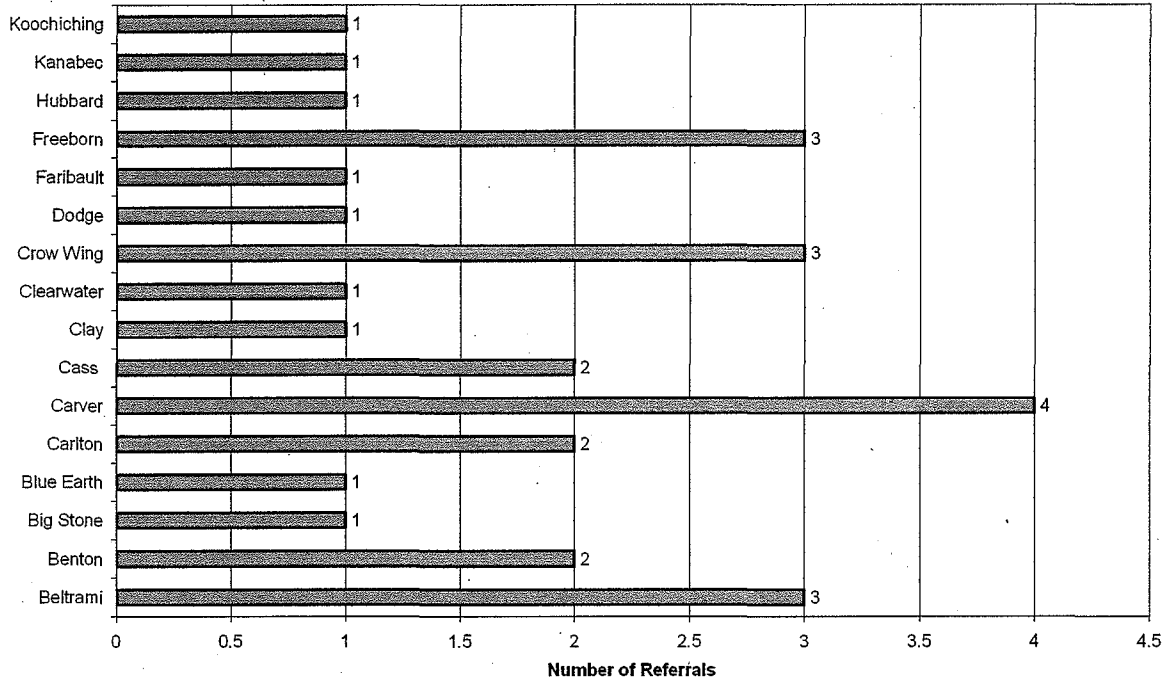
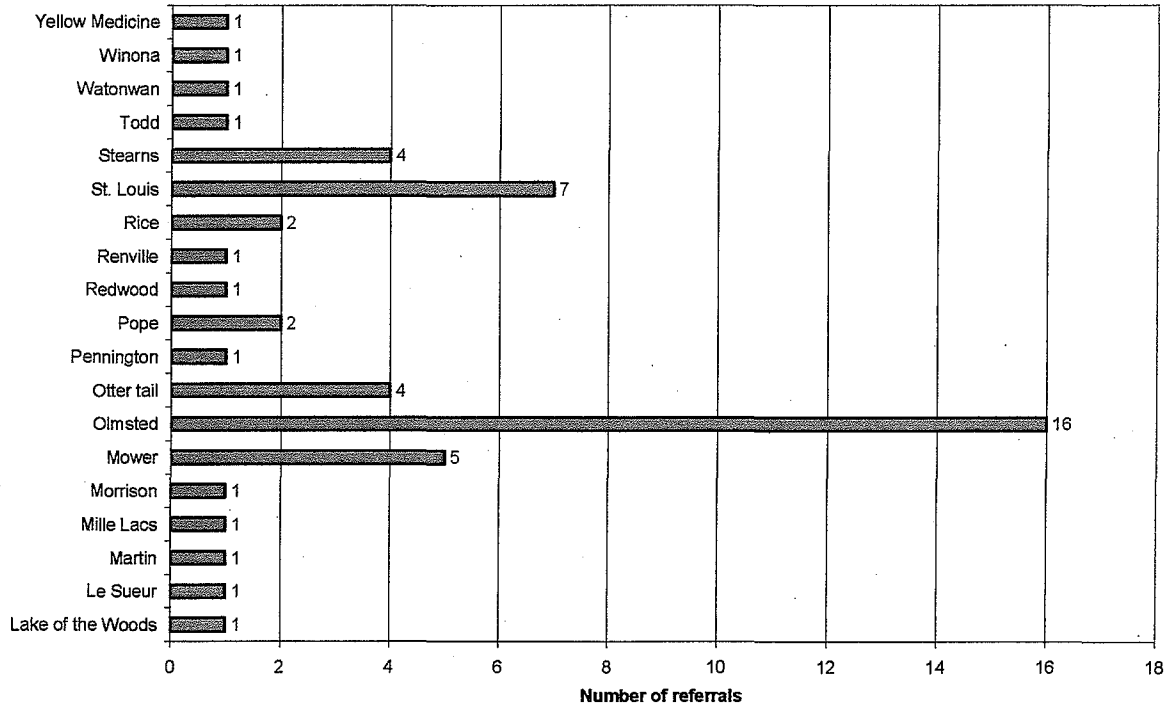
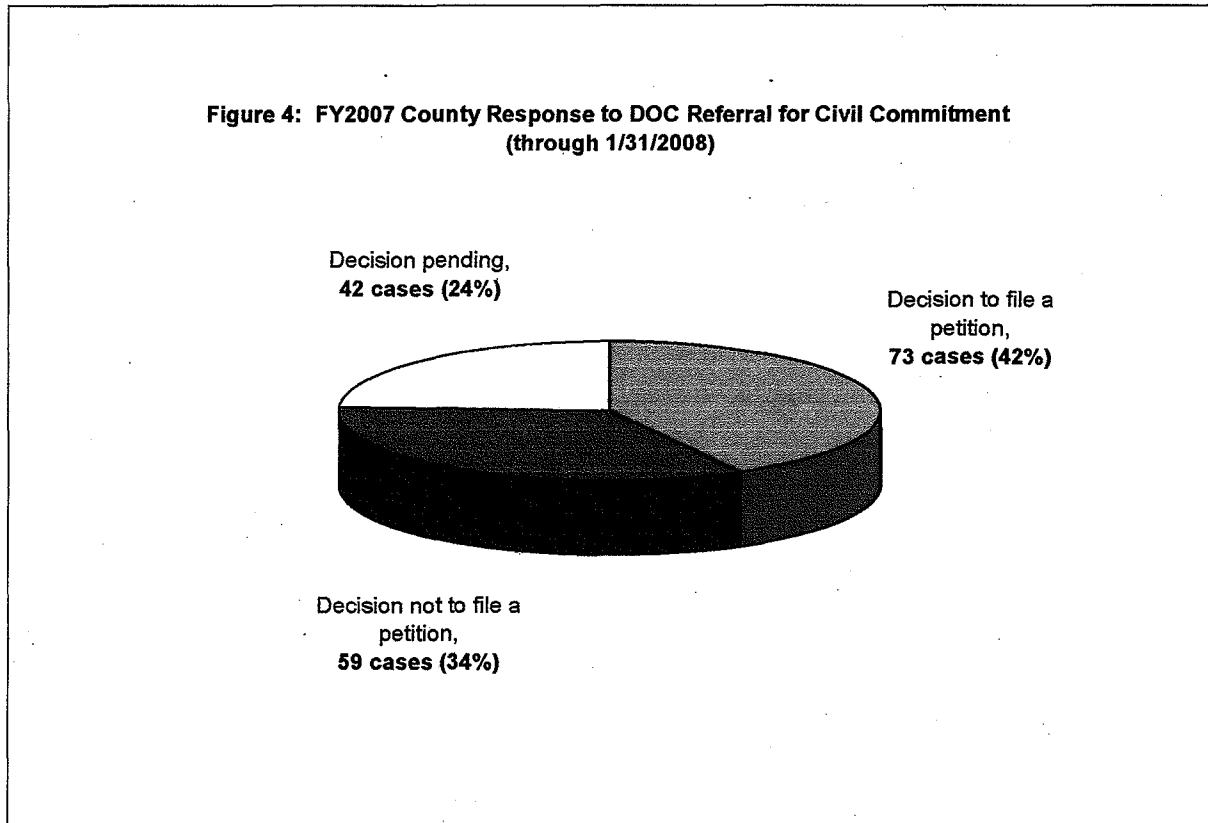


Figure 3: Department of Corrections SDP/SPP Commitment Referrals To Greater Minnesota Counties II (FY2007)



FY2007 Outcomes

In order to be compliant with the guidelines set in Minnesota Statute 253B.185 in this report, all the referrals made by the DOC to counties on the last day of the fiscal year 2007 must have been acted upon by the County Attorney by October 28, 2007. Figure 4 shows that County Attorneys pursued and filed petitions for 42% of the 174 referrals from the DOC, as of January 31, 2008. Overall, 18% of the total referrals for civil commitment were filed by a County Attorney or designee within 120 days from the initial date of the Department of Corrections referral.



(i) Decision to File

Of the 73 cases where petitions for civil commitment were filed after the initial recommendation from the DOC, 31 cases were filed within 120 days.

(ii) Decision Not to File

The decision not to pursue a petition for civil commitment was made on 59 of the cases initially referred from the DOC (34%).

(iii) Decision Pending

As of January 31, 2008, 24% of the referrals are pending a decision from the assigned county's attorney—42 cases have been pending for over 120 days (Figure 5); there were 29 cases pending for over 300 days since the initial referral from the DOC to the counties.

Figure 5 illustrates the performance of each county in responding on their respective DOC referral assignments within 120 days from the initial referral from the Department of Corrections. The metropolitan counties received 55% of the initial referrals from the DOC in FY2007, and the remaining Minnesota counties considered outside of the metropolitan region, received 45% of the initial referrals from the DOC in the same fiscal year. Of the cases where a petition for civil commitment was pursued by a County Attorney, 42% were filed within 120 days (or 18% of all the referrals made by the DOC) in FY2007. Of the 42 cases pending, 100% were pending for over 120 days as of January 31, 2008 (Figure 5).

Figure 5: FY2007 County Performance Measures				
COUNTY	Cases Filed		Cases Pending	
	≤120 days	>120 days	Number of cases	> 120 days
Aitkin	n/a	n/a	n/a	n/a
Anoka	0	2	1	1
Becker	n/a	n/a	n/a	n/a
Beltrami	1	0	2	2
Benton	0	1	1	1
Big Stone	0	1	1	1
Blue Earth	0	1	0	0
Brown	n/a	n/a	n/a	n/a
Carlton	0	0	2	2
Carver	0	1	2	2
Cass	0	1	1	1
Chippewa	n/a	n/a	n/a	n/a
Chisago	1	0	0	0
Clay	1	0	0	0
Clearwater	1	0	0	0
Cook	n/a	n/a	n/a	n/a
Cottonwood	n/a	n/a	n/a	n/a
Crow Wing	0	1	2	2
Dakota	2	2	1	1
Dodge	1	0	0	0
Douglas	n/a	n/a	n/a	n/a
Faribault	0	0	1	1
Fillmore	n/a	n/a	n/a	n/a
Freeborn	0	0	3	3
Goodhue	1	0	0	0
Grant	n/a	n/a	n/a	n/a
Hennepin	5	8	4	4
Houston	n/a	n/a	n/a	n/a
Hubbard	0	1	0	0
Isanti	n/a	n/a	n/a	n/a
Itasca	n/a	n/a	n/a	n/a
Jackson	n/a	n/a	n/a	n/a

COUNTY	Cases Filed		Cases Pending	
	≤120 days	>120 days	Number of cases	> 120 days
Kanabec	0	0	0	0
Kandiyohi	n/a	n/a	n/a	n/a
Kittson	n/a	n/a	n/a	n/a
Koochiching	0	1	0	0
Lac Qui Parle	n/a	n/a	n/a	n/a
Lake	n/a	n/a	n/a	n/a
Lake of the Woods	0	1	0	0
Le Sueur	0	1	0	0
Lincoln	n/a	n/a	n/a	n/a
Lyon	n/a	n/a	n/a	n/a
Mahnomen	n/a	n/a	n/a	n/a
Marshall	n/a	n/a	n/a	n/a
Martin	1	0	0	0
McLeod	n/a	n/a	n/a	n/a
Meeker	n/a	n/a	n/a	n/a
Mille Lacs	1	0	0	0
Morrison	0	0	0	0
Mower	1	2	1	1
Murray	n/a	n/a	n/a	n/a
Nicollet	n/a	n/a	n/a	n/a
Nobles	n/a	n/a	n/a	n/a
Norman	n/a	n/a	n/a	n/a
Olmsted	3	7	5	5
Otter tail	0	1	1	1
Pennington	1	0	0	0
Pine	n/a	n/a	n/a	n/a
Pipestone	n/a	n/a	n/a	n/a
Polk	n/a	n/a	n/a	n/a
Pope	0	1	1	1
Ramsey	2	1	8	8
Red Lake	n/a	n/a	n/a	n/a
Redwood	0	1	0	0
Renville	0	0	1	1
Rice	1	0	0	0
Rock	n/a	n/a	n/a	n/a
Roseau	n/a	n/a	n/a	n/a
Scott	2	1	2	2
Sherburne	n/a	n/a	n/a	n/a
Sibley	n/a	n/a	n/a	n/a
St. Louis	1	2	0	0
Stearns	0	1	0	0
Steele	n/a	n/a	n/a	n/a
Stevens	n/a	n/a	n/a	n/a
Swift	n/a	n/a	n/a	n/a
Todd	0	1	0	0
Traverse	n/a	n/a	n/a	n/a
Wabasha	n/a	n/a	n/a	n/a

COUNTY	Cases Filed		Cases Pending	
	≤120 days	>120 days	Number of cases	> 120 days
Wadena	n/a	n/a	n/a	n/a
Waseca	n/a	n/a	n/a	n/a
Washington	3	0	1	1
Watowwan	0	0	0	0
Wilkin	n/a	n/a	n/a	n/a
Winona	1	0	0	0
Wright	1	2	1	1
Yellow Medicine	0	1	0	0
TOTAL	<u>31</u>	<u>43</u>	<u>42</u>	<u>42</u>

Key:
1. County did not receive any DOC referrals in Fiscal Year 2007
2. n/a (Not Applicable)

Counties and Judicial Districts

Judicial District	County Represented
1 st	Carver, Dakota, Goodhue, Le Sueur, McLeod, Scott, Sibley
2 nd	Ramsey
3 rd	Dodge, Fillmore, Freeborn, Houston, Mower, Olmsted, Rice, Steele, Wabasha, Waseca, Winona
4 th	Hennepin
5 th	Blue Earth, Brown, Cottonwood, Faribault, Jackson, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Redwood, Rock, Watowwan
6 th	Carlton, Cook, Lake, St. Louis
7 th	Becker, Benton, Clay, Douglas, Mille Lacs, Morrison, Otter tail, Stearns, Todd, Wadena
8 th	Big Stone, Chippewa, Grant, Kandiyohi, Lac Qui Parle, Meeker, Pope Renville, Stevens, Swift, Traverse, Wilkin, Yellow Medicine
9 th	Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau
10 th	Anoka, Chisago, Isanti, Kanabec, Pine, Sherburne, Washington, Wright

Source: Bench & Bar of Minnesota 2007

Figure 6: Represents all the 87 counties in Minnesota and their respective court jurisdiction.

Each judicial district contains a county that was responsible for at least one DOC referral in FY2007. As of January 31, 2008, courts in each judicial district had County Attorneys that filed at least one petition for civil commitment.

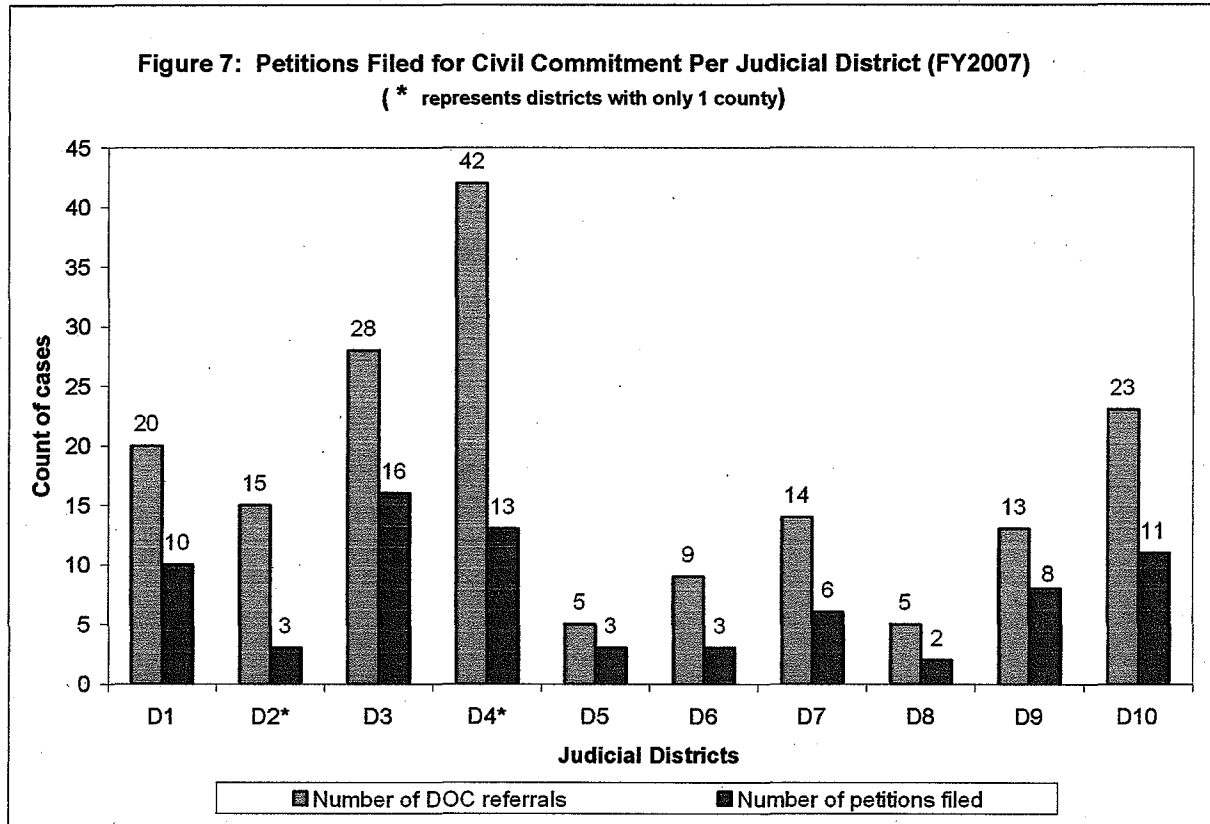


Figure 7: Compares the activity in the courts within each judicial district in FY2007. Overall, most of the courts had petitions filed by County Attorneys for at least one-third of the DOC initial referrals to counties in each respective judicial district. The county in the fourth judicial district received the highest number of DOC referrals, while the counties in the third judicial district filed the greatest number of petitions. The counties in the 1st, 3rd, 5th, and 9th judicial districts filed petitions for 50% or greater of their referrals from the DOC. The counties in the 2nd, 4th, and 6th judicial districts filed less than 40% of their referrals. The counties in the 7th, 8th, and 10th judicial districts filed more than 40% of their referrals.

The counties in the third judicial district had the greatest total number of DOC initial referrals of any judicial district without a Metro county. Olmsted County, a member of the third judicial district, received 16 of the initial referrals from the DOC (the greatest number of referrals from the DOC in FY2007 to any county in greater Minnesota). The third judicial district also had the greatest number of petitions filed of any judicial district (Figure 7).

Figure 8: Average Petition Filing Time In Minnesota Judicial Districts

(* represents judicial districts with only 1 county)

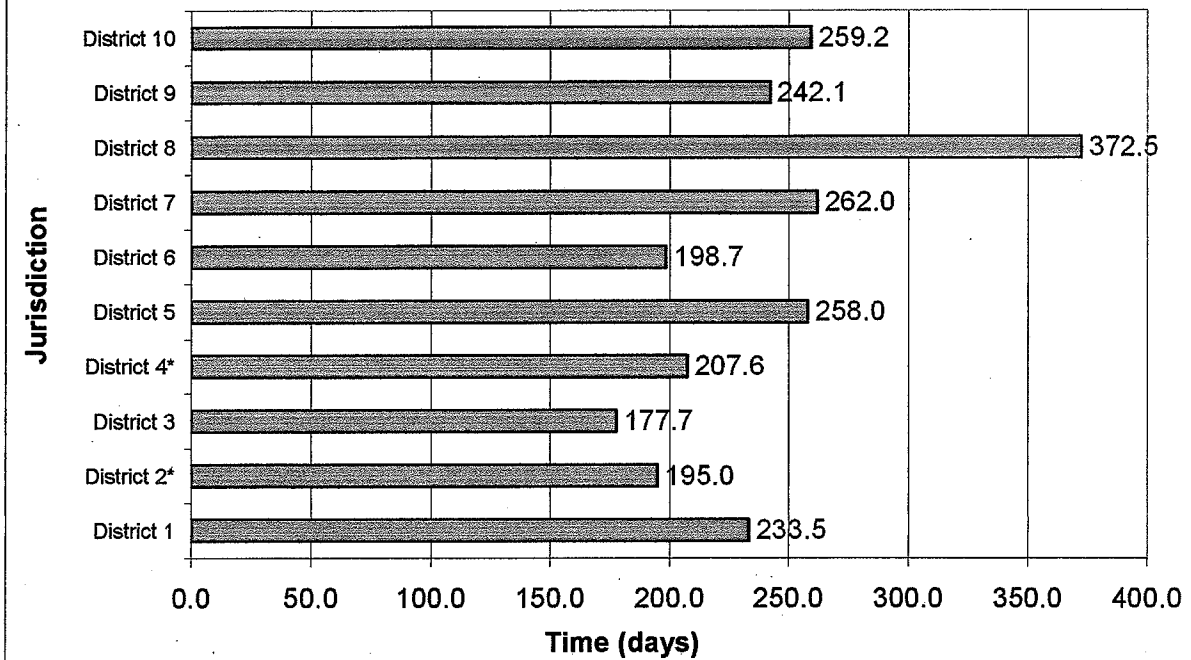


Figure 8 compares the average amount of time spent before a petition is filed across Minnesota's judicial system as of January 31, 2008. County Attorneys in the eighth judicial district spent an average of 372.5 days before filing a petition for commitment, where as District 3 spent an average of 177.7 days after the initial referral from the Department of Corrections (Figure 8). In addition, Judicial District 8 spent the longest average time before deciding to file a petition, and ranked tenth overall with an average of 372.5 days. None of the county attorneys in the eighth district filed any cases within 120 days. Overall, none of the judicial districts had an average decision to file time of 120 days or less. The shortest average decision to file time of any judicial district was 177.7 days (Figure 8). The actual total time spent by individual counties before filing a petition for civil commitment from July 1, 2007 to January 31, 2007 is ranges from 585 to 2843 days, with the median at 1754.5 days.

Summary of Results

As of January 31, 2008, 31 of the 174 referrals by the DOC to County Attorneys for a petition for civil commitment as SDP/SPP were filed in 120 days or less. In addition, 42 of the initial 174 referrals for civil commitment as SDP/SPP from the DOC to the counties were pending a decision from the county attorney; these pending cases include transferred DOC referrals from the county of the initial referral to another county and/ or the Attorney General's Office. The decision not to pursue a petition for civil commitment was made by the County Attorneys on 59 of the cases.

Overall, county attorneys and designees spent an average of 1,642 days before filing petitions for civil commitment for cases referred in FY2007. Seven of the ten Minnesota judicial

districts had county attorneys filing petitions for civil commitment over an average of 200 days after the initial referral from the DOC. Transfers of referrals from the county that received the initial referral from the DOC to another county or designee (Attorney General's Office) contributed to the amount of time before a decision is made to file a petition for civil commitment. Of the 31 cases filed within the 120 day statutory provision, 52% were cases filed by the 11 Metropolitan counties.

County Attorneys made a decision on 132 of the 174 referrals in an average of 177.7 to 372.5 days after the initial referral from the Minnesota Department of Corrections (Figure 8). The counties in the third judicial district experienced: 1) the greatest number of petitions filed within 120 days from the time the initial referral was sent from the Minnesota Department of Corrections than any other judicial district (Figure 8); and 2) the lowest average time before the county attorney's decision to file a referred case for civil commitment as a SDP/ SPP.

IV. ATTACHMENTS

Attachment 1:

Minnesota Statutes, Section 253B.185, Subdivision 8(c) states:

REPORT.

By February 1 of each year, the commissioner of human services shall annually report to the respective chairs of the divisions or committees of the senate and house of representatives that oversee human services finance regarding compliance with this subdivision.

V. SUPPLEMENTS

Supplement 1:

Laws of Minnesota, Chapter 645, Section 645.02 states:

EFFECTIVE DATE AND TIME OF LAWS.

Each act, except one making appropriations, enacted finally at any session of the legislature takes effect on August 1 next following its final enactment, unless a different date is specified in the act.

Supplement 2:

Minnesota Statutes, Section 253B.185, Subdivision 8 (a) and (b) states:

PETITION REQUIRED.

(a) Within 120 days of receipt of a preliminary determination from a court under section 609.1351, or a referral from the commissioner of corrections pursuant to section 244.05, subdivision 7, a county attorney shall determine whether good cause under this section exists to file a petition, and if good cause exists, the county attorney or designee shall file the petition with the court.

(b) Failure to meet the requirements of paragraph (a) does not bar filing a petition under subdivision 1 any time the county attorney determines pursuant to subdivision 1 that good cause for such a petition exists.

VI. REFERENCES

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