

Sex Offender Policy and Management Board Study

December 2000

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Background

Introduction: During the 2000 legislative session issues related to the sentencing, civil commitment, and treatment of high-risk sex offenders were discussed. Additionally, the idea of establishing a Sex Offender Policy and Management Oversight Group was proposed. As a result, Minnesota Laws 2000, Chapter 359 (See Appendix A) was passed directing the department of corrections, in collaboration with the supreme court, the attorney general's office, the department of human services, and the sentencing guidelines commission, to report on sex offender issues.

This is not the first time that Minnesota has studied issues related to high-risk sex offenders:

- 1988-89 Attorney General's Task Force: Recommended that sex crime sentences be lengthened, both in general and especially for repeat sex offenders. Also recommended that the existing psychopathic personality statute be retained.
- 1991 DOC Report on Risk Assessment and Release Procedures for Violent Offenders/Sexual Psychopaths: Recommended many changes in identification and supervision of high-risk sex offenders. Recommended that sex offenders be screened before being released and that the most dangerous be referred to counties for possible civil commitment. This resulted in Minnesota becoming the second state that used civil commitment statutes to treat and confine sex offenders after serving their time of imprisonment.
- 1994 Legislative Auditor Report on the Psychopathic Personality Commitment Law: Recommended three options that included continuing to rely on the existing psychopathic personality statute (with procedural improvements); development of a more contemporary civil commitment law; or removing sex offenses from sentencing guidelines and permitting indeterminate sentencing.
- 1993-94 Legislative Task Force on Sexual Predators: Recommended language that became the basis for the 1994 Sexually Dangerous Persons Statute. Also recommended expanding the Patterned Sex Offender Sentencing statute. From the report: "The long-term goal of policymakers should be to diminish the use of that mental health system (i.e., civil commitment) and increase the use of the criminal justice system to deal with these offenders."
- 1998 Civil Commitment Study Group: Compared Minnesota civil commitment statutes to those of other states and recommended few changes as it was thought that Minnesota's commitment laws compared favorably. This report identified a significant increase in the cost of civil commitment to the state if current practices continued. The study group developed alternatives to the current civil commitment process but did not recommend any particular sentencing alternatives.

Membership of the Work Group: The Work Group (Appendix B) met on seven occasions. Additionally, several Department of Corrections (DOC), Department of Human Services (DHS) and Minnesota Sentencing Guidelines Commission (MSGC) staff worked on specific projects or report sections.

Civil commitment of sex offenders after incarceration - a short history: In July 1991, a 23-year-old St. Cloud State University student was abducted and killed by Scott Stewart. Stewart was a twice-convicted sex offender who had failed to report to a halfway house upon release. Stewart was later found guilty of First Degree Murder and sentenced to life without parole. The murder was the culmination of a

series of violent crimes against adult females that had been committed in recent years by sex offenders released from prisons in Minnesota or other states.

At the time, Minnesota had a statute that allowed for the commitment of some individuals as psychopathic personalities. The law, written in 1939 and upheld by the United States Supreme Court in 1940, had been used only rarely during the 1970s and 1980s and there was talk of repealing the law as outmoded and outdated. However, a 1988 Task Force established in response to acts of violence against women had recommended retention of the statute.

In September 1991, the DOC began to screen all sex offenders prior to their release from prison and to give notice to the county attorney in the county in which the offender was originally convicted of the offender's impending release. This practice was later codified and required by Minnesota statute. The legislature also appropriated funding and authorized construction of a new DHS facility to house those individuals who might be committed after being released from prison. Commitment began to be utilized by county attorneys to provide treatment in a secure setting for sex offenders about to be released from prison who were determined to be high-risk.

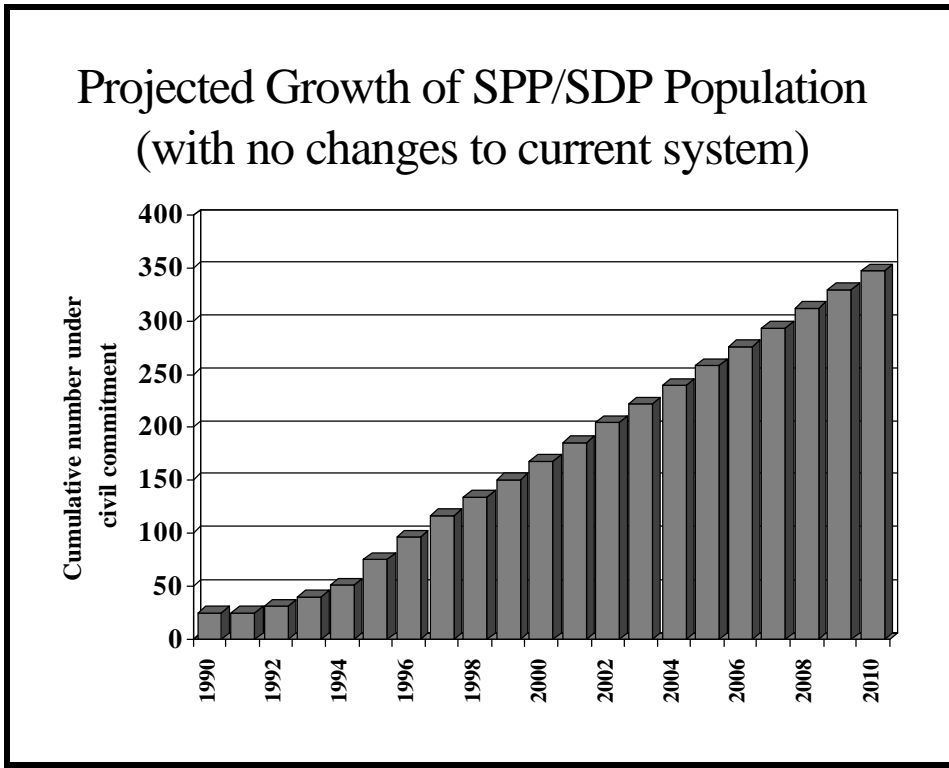
In 1994, the Minnesota Legislature created a new, more contemporary civil commitment statute to complement the 1939 statute. Known as the Sexually Dangerous Persons statute, this allowed for commitment of offenders without having to prove that the offender has an utter inability to control his/her sexual impulses.

Use of the civil commitment statute has been upheld by the Minnesota Supreme Court, and the United States Supreme Court upheld the practice in *Kansas v. Hendricks*.

In the twelve-year period from 1987 through 1998, 8,700 adults were convicted of felony-level sex offenses. Of these, 3,900 (45% of convicted sex offenders) were sent to prison. The remaining 4,800 were managed on probation supervision in the community. Three thousand of the offenders sent to prison were released, of whom 287 were assessed by DOC staff as posing a high risk to public safety and referred to county attorneys for consideration of civil commitment (10 percent of released offenders). Of the offenders referred by the DOC, 135 were eventually civilly committed. (This amounts to less than five percent of released offenders, and less than two percent of all adults convicted of felony sex offenses in that time period.)

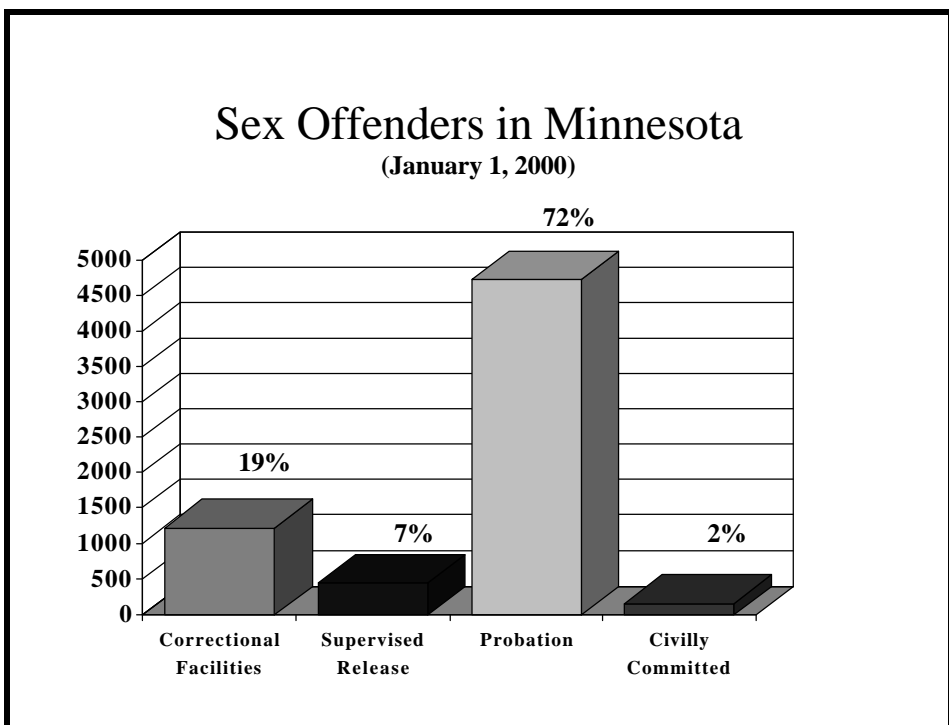
The population of civilly committed offenders is growing by approximately 18 per year. The current cost of confining and treating civilly committed sex offenders is approximately \$20 million per year. If nothing changes, this amount is projected to double in five and quadruple in ten years. These potential increases (*see Figure 1*) are the driving force causing the DOC and DHS to work together in collaboration to pool resources to manage the sex offender population more efficiently and effectively.

Figure 1



The current system results in a concentration of resources on a group of offenders who make up less than two percent of the current population of sex offenders in confinement or on correctional supervision in Minnesota (see Figure 2).

Figure 2



Sex Offender Policy and Management Oversight

The work group believed that it was important to understand how other states manage their sex offender population in order to decide how the establishment of a policy and management oversight board might affect Minnesota. Seven states were identified for further study. The basis for choosing these seven states was that either they had civil commitment statutes or they utilized some form of board for managing the sex offender population. Personnel from these states were contacted and all were willing to participate in the study. States included in the study are: Colorado (CO), Illinois (IL), Iowa (IA), Pennsylvania (PA), Tennessee (TN), Washington (WA), and Wisconsin (WI). Following is a summary of comparisons from the study. Further information about each individual state is available in Appendix C.

Civil Commitment vs. Lifetime Supervision/Registration: Civil commitment and lifetime supervision/registration are two ways of managing the sex offender population. Currently 15 states have civil commitment statutes that are used to confine sex offenders for treatment following incarceration. In this study, four states utilize civil commitment (IA, IL, WI, WA). In all of these states there is a process for identifying sex offenders about to be released from prison who are thought to pose the highest risk for reoffense. These offenders undergo a probable cause hearing and civil commitment trial. Offenders found to meet criteria for civil commitment are confined in a treatment facility, usually on an indefinite basis.

The number of civilly committed sex offenders in these states ranges from 12 to approximately 170. By way of comparison, as of November 1, 2000, Minnesota had 166 offenders civilly committed as Sexual Psychopathic Personalities or Sexually Dangerous Persons and confined in DHS facilities.

Lifetime supervision/registration is used in three states included in this study (CO, PA, TN) as a means of managing the sex offender population. In these states, offenders found to be Sexually Violent Predators (SVP) are placed under the supervision of a probation officer and required to register their address with law enforcement for the rest of their lives. The number of offenders assigned to this status remains rather low because lifetime supervision/registration statutes are new and have been subject to court challenges of their constitutionality.

One difference between civil commitment and lifetime supervision/registration is in the area of treatment. The basis of civil commitment is treatment of the offender, along with confinement in a secure facility until treatment is complete and the offender is no longer believed to pose a high level of risk to the public. Lifetime supervision/registration may have a treatment component, but the focus is to provide public safety through monitoring and promoting public awareness.

Board vs. Interagency Group vs. Committee: Six states utilize some type of systematic way to get individuals from different agencies together in order to provide coordination within the system. A board was used in five states (IA, IL, CO, PA, TN) to achieve this. Wisconsin has developed a bi-monthly interagency meeting instead of a board. Washington developed an end of sentence review committee.

Legislation provided authority to boards in Illinois, Colorado, Pennsylvania, and Tennessee and to the committee in Washington. In Wisconsin and Iowa the groups developed without a need for legislation but have become somewhat institutionalized. In all states, the majority of the work from the boards/meetings is done through subcommittees.

Washington's end of sentence review committee was structured in a different way than those of other states. The main goal of the committee is not necessarily for collaboration and coordination, but instead to develop and maintain a risk assessment tool.

Tennessee's board was initially developed to establish best practice guidelines for sex offender treatment professionals. However, it has served many other purposes including coordination within the system and serving as a consultant to the legislature and other groups of professionals.

The earliest form of systematic gathering within this comparison group is through an interdisciplinary committee in Iowa in 1987 that eventually evolved into the Iowa Board for the Treatment of Sexual Abusers. Illinois, in March of this year, held its first Sexual Offender Management Board meeting. Colorado's Sexual Offender Management Board was implemented in 1992. Pennsylvania implemented the Sexual Offender Assessment Board in 1995. The interagency meeting in Wisconsin was implemented in 1995. The number of individuals on these boards or entities ranges from 13 to 50 people.

Common themes surrounding the creation of the boards emerged. The most common theme was to provide a collaborative effort in managing the sex offender population. Other reasons for creation were also cited as follows. Two of the boards (CO and PA) were created in response to Megan's Law, the Wetterling Act, and the Lychner Act which require states to develop sex offender registration and notification legislation. Two other boards (IA and IL) were created to address the need for collaboration and development of professional standards. The interagency meeting in WI was created as a means to collaboratively address legal and implementation issues with that state's civil commitment law. Tennessee's board was created to establish best practice guidelines for sex offender treatment providers. At this time there is no provider certification in Tennessee, but there will be in the near future. Although Tennessee's board was not created to provide a collaborative effort, it has served this purpose as well as serving as a center-point for information. Many states are either starting to develop systems or have mentioned the need for this type of collaboration and coordination to carry over into the juvenile system for sex offenders.

Legislation: Four of the five boards (CO, IL, PA, TN) and the End of Sentence Review Committee in Washington were established by legislative mandate.

Board members from Colorado and Iowa stated that some of the board's functions are to provide a coordinated response to the legislature, track current legislative issues, and promote legislation concerning sex offender management. The Colorado board is described as having significant input into new legislation regarding sex offenders. The Iowa board does not have any legislative authority; however, it is still able to provide certification to programs and professionals that treat sex offenders.

Although the Illinois and Pennsylvania boards were established by legislative statute, neither is seen as having an influential role in new legislation regarding sex offenders, probably due to organizational difficulties.

Wisconsin's interagency meeting does not provide input into the legislative process, nor was it established by the legislature. Washington's end of sentence review committee is strictly focused on the development and use of a risk assessment tool.

Standards: All seven states have some type of standards for sex offender management. Standards included in the study are:

- Professional certification for individual treatment providers

- Best practice guidelines for professionals
- Program certification
- Risk assessment
- Notification and/or registration

Professional certification standards for individual treatment providers are recognized in four states: Iowa, Illinois, Colorado, and Washington. Pennsylvania and Tennessee are in the process of developing standards for professional certification. Professional certification requires that standards must be followed in order to obtain and maintain certification to treat sex offenders.

Best practice guidelines for professionals are utilized in Tennessee. These guidelines need to be followed in order for a practitioner to receive referrals from judges. If practitioners do not follow these guidelines, they can still practice sex offender treatment. They simply are not placed on a list given to judges of individuals who follow these guidelines. This type of standard may be considered a step down from professional certification.

Program certification standards have been implemented in two states: Iowa and Wisconsin. In this model, sex offender treatment programs must meet standards in order to be a certified sex offender treatment program.

All seven states have risk assessment and notification/registration standards in place. Risk assessment standards provide a means for identifying high-risk offenders. Notification and registration standards are used to identify those sex offenders about whom the community needs to be notified and to determine what information the community needs about a specific sex offender.

Challenges: Creation and implementation of sex offender management boards have not come without issues. The issues brought up most frequently included ensuring that:

- The appropriate number and mix of people were appointed to the board.
- All interested parties are involved as early as possible.
- The board has appropriate, well-organized support staff.
- The legislature has clearly written language for implementation and authority of the board and its policies.
- Members of the board do not become entrenched in counterproductive positions. For example, in one state the board was charged with development of a risk assessment tool to determine community notification risk level. Several members of the board developed a preference for a “risk assessment tool” that has not been shown to predict sex offender recidivism. This tool even includes items that are well established in sex offender research as not being predictive of risk. Some members of the board have attempted to introduce a new risk assessment tool with proven validity in prediction of risk (e.g., the Minnesota Sex Offender Screening Tool-Revised or the Static 99). However, this was rejected because members of the board support the existing tool.
- Funding is available to carry out the function(s) of the board.
- Enough time and administrative assistance are given to members of the board to get work done in an efficient manner.

Comparison with Minnesota's Approach: In Minnesota, the following agencies are already responsible for the following tasks usually assigned to state boards:

- Professional Certification and Best Practice Guidelines for Professionals: Minnesota has chosen not to license or certify individuals (many practitioners are licensed by the Boards of Psychology, Social Work, Medical Practice, etc.). Instead, Minnesota certifies programs as described below.
- Program Certification: The DOC is responsible for promulgating rules governing the certification of adult and juvenile residential sex offender programs. Currently, there are eight juvenile sex offender treatment programs regulated under Chapter 2955 and two adult sex offender treatment programs regulated under Chapter 2965. In addition, there are seven juvenile sex offender treatment programs in other states regulated under Chapter 2955 and four more with applications in process. The DHS has promulgated rules regarding the treatment of civilly committed sex offenders at the two sites of the Minnesota Sex Offender Program (Moose Lake and St. Peter).
- Risk Assessment: The DOC is responsible for developing and implementing the risk assessment process for civil commitment referral and community notification. The DOC has developed the Minnesota Sex Offender Screening Tool-Revised, a nationally known and utilized assessment tool, to assist in these assessments.
- Community Notification: The DOC is responsible for assigning risk levels to offenders prior to release, and sending appropriate information to relevant law enforcement agencies. Law enforcement agencies are then responsible for notifying community members about Level 3 offenders and for notifying schools, day care facilities, etc., about Level 2 offenders.
- Predatory Offender Registration: The Bureau of Criminal Apprehension (BCA) is responsible for maintaining the predatory offender registration and tracking program. The BCA is also responsible for DNA profiling.
- Funding for sex offender treatment programming for offenders supervised in the community: The DOC monitors funding for these purposes. Additionally, several counties and Community Corrections agencies provide funding as well.
- Legislative tracking and bill review: State agencies are responsible for keeping abreast of legislative developments, proposing new legislation, and developing budget requests. Counties fulfill these responsibilities directly or through the Association of Minnesota Counties or the Minnesota Association of Community Corrections Act Counties. Other interested groups include the Minnesota Corrections Association and unions.
- Standard for sex offender supervision: The DOC is responsible for writing policies governing the supervision of felons within the community. Community Corrections Act (CCA) agencies also set policy for sex offender supervision within their own jurisdictions.

Summary: It was the consensus of the group that Minnesota already has systems in place for addressing most of the above functions. The work group did not believe that development of a formal sex offender policy and management oversight board would be necessary and that it would instead add an unnecessary layer of bureaucracy to the existing system. The group saw the need to:

- Improve the distribution of information about all parts of the sex offender management system to all interested parties.
- Update this information periodically to account for legislative changes, new techniques, and new technologies.
- Provide forums for discussion of issues that require inter-agency communication, coordination and collaboration.

To further the above, the group recommends:

Recommendation #1:

The DOC and DHS, in collaboration with other agencies responsible for the management of sex offenders should develop a report that provides information about all aspects of the sex offender management system. This report should be updated every two years as a collaboration among the agencies responsible for particular areas. This data-based report should be distributed to the legislature and all stakeholders and report on benchmarks that measure the performance of the system. The report should include the following subject areas:

- a. Sex crime statutes and sentencing practices**
- b. Supervision of sex offenders**
- c. Sex offender treatment**
- d. Predatory offender registration**
- e. Community notification**
- f. Sex offender risk assessment**
- g. Analysis of fiscal impact**
- h. Recommendations for future directions**

DOC/DHS Collaboration on High-Risk Sex Offenders: Results and Future Work Plan

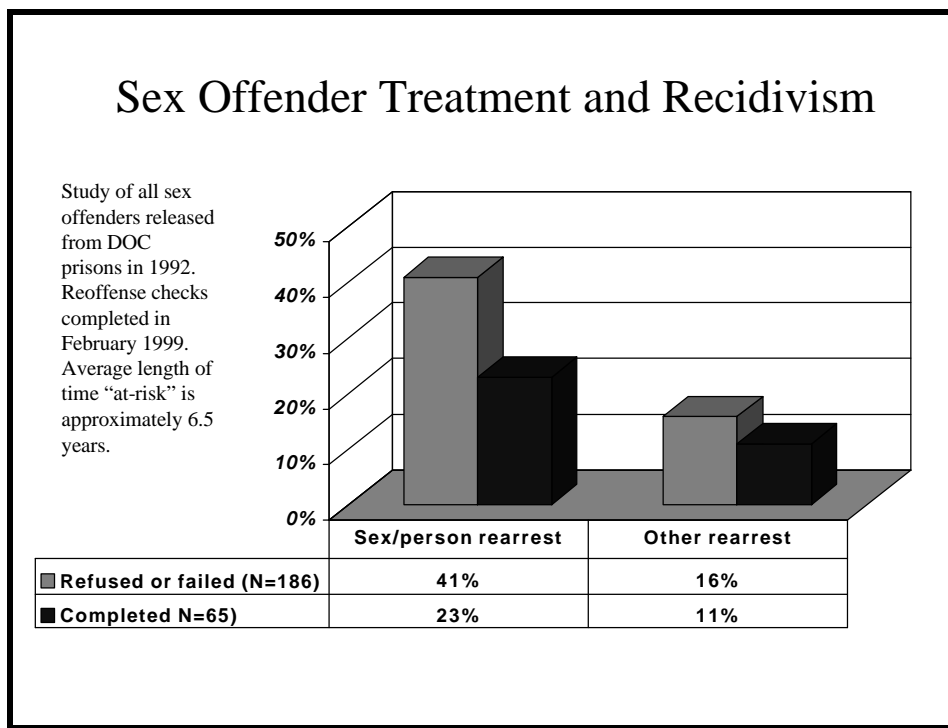
The goal of the collaboration: The ultimate goal of the collaboration is to more cost-effectively manage this small group of sex offenders who pose a high risk to reoffend, without compromising public safety. Treatment is provided for offenders who are willing and able to participate, but treatment refusers are to be managed through extended incarceration.

Currently a relatively small proportion of the sex offender population is consuming a disproportionate amount of state tax dollars spent on sex offenders. This will only increase unless a solution is found to slow the growth of this population and motivate offenders to use their incarceration time more wisely.

Sex offender treatment: Currently both the DOC and DHS provide treatment programming for sex offenders. Treatment is a long-term, intensive, group-oriented process that requires offenders to fully accept responsibility for their offending behaviors. Under the guidance of experienced, licensed psychologists and social workers, offenders are required to develop a full understanding of the precursors that led up to their offenses in order to develop methods for preventing these behaviors from occurring again.

There is evidence suggesting that offenders who complete sex offender treatment while incarcerated are at a lower risk to reoffend with either a new sex or person offense. In a 1999 study of all sex offenders released from DOC facilities in 1992, 41 percent of the offenders who either refused or failed to complete treatment were rearrested for a new sex or person offense within six years after release. For sex offenders who completed treatment, 23 percent were rearrested (see Figure 3).

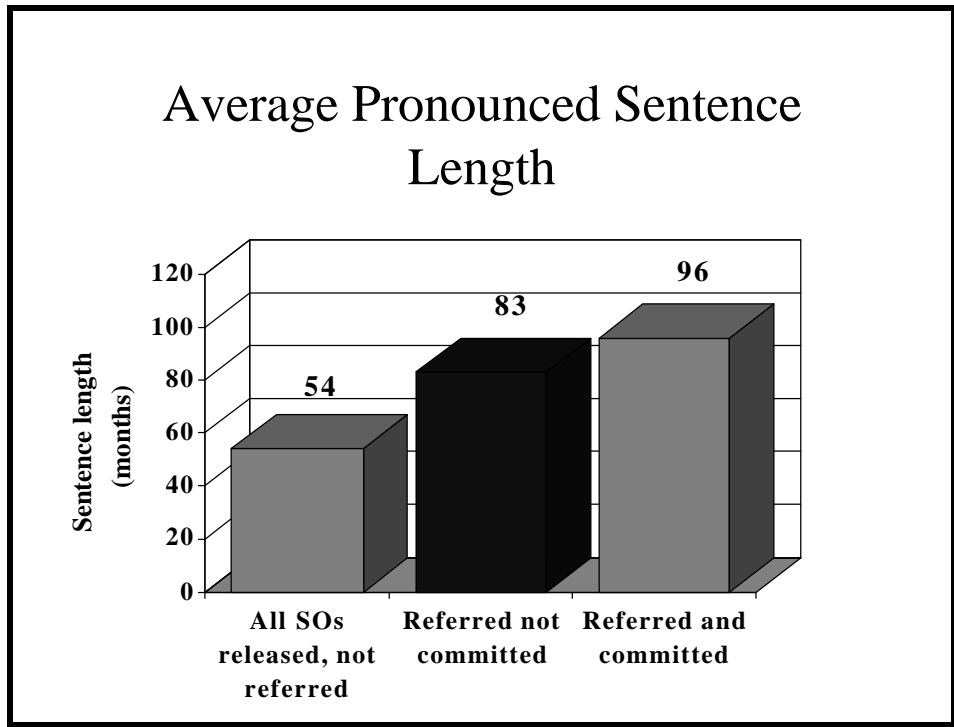
Figure 3



For the select few offenders that are civilly committed, DHS provides long-term treatment at the Minnesota Sex Offender Program (MSOP), with sites at Moose Lake and St. Peter. Minimum treatment length for this group is about five years.

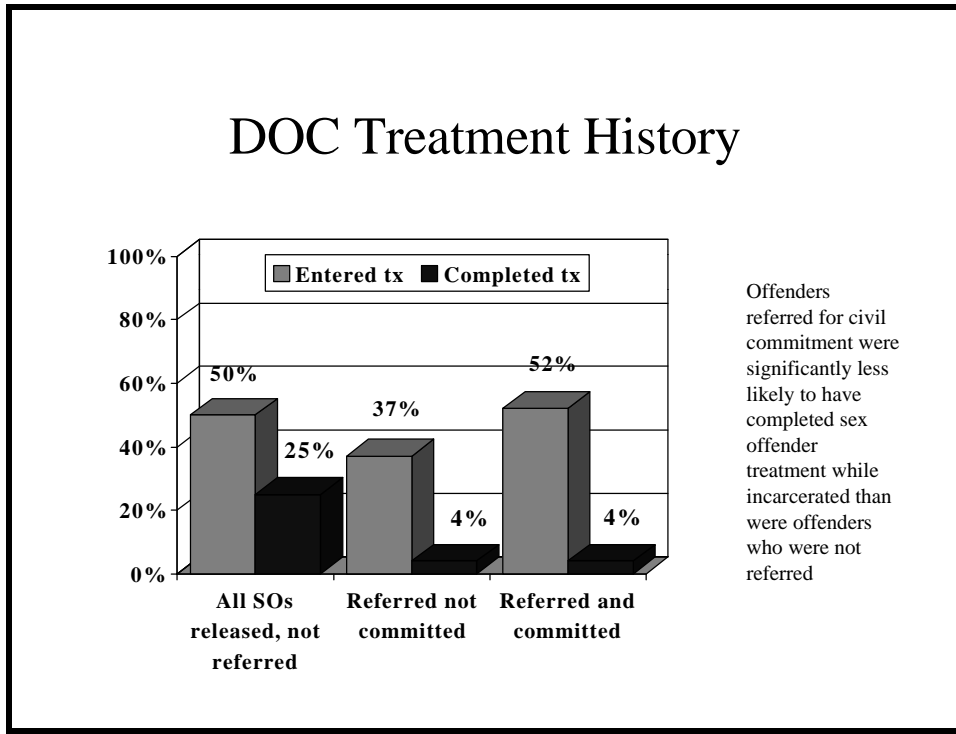
Participation of civilly committed offenders in prison treatment programs: Sex offenders who are ultimately committed as Sexual Psychopathic Personalities (SPP) and/or Sexually Dangerous Persons (SDP) tend to also have received longer pronounced sentences on average than sex offenders who are not referred, or those who were referred but not committed (see Figure 4).

Figure 4



However, despite having more prison time to serve, these offenders are less likely to complete sex offender treatment while in prison (See Figure 5). Less than five percent of sex offenders civilly committed after incarceration completed sex offender treatment while in prison, despite an average incarceration time of about five years.

Figure 5



Participation of civilly committed offenders in treatment at the Minnesota Sex Offender Program (MSOP): The DHS has studied treatment participation of civilly committed offenders and discovered that 20 percent refuse to participate; 40 percent participate but make no discernible progress; and, 40 percent participate and make progress. The treatment participation rate has increased since 1995, but has now stabilized and is at or above rates reported in other SPP/SDP programs nationally. The percentage not participating in sex offender treatment has remained stable at about 20 percent over the last five years. Some of these offenders do participate in other treatment activities as spelled out in the rules promulgated for the MSOP.

The cohort showing the most optimistic response to treatment are persons currently 35 years old or younger (N=55, or 38 percent of the total population). This group participates in treatment at a higher rate and more consistently than the rest of the population.

Some of the offenders in the MSOP who refuse to participate or fail to make progress are on release status from the DOC. These offenders can be directed to participate in treatment or be returned to prison.

Goals: The DOC and DHS will develop a joint assessment process to better assess sex offenders upon intake into the DOC. This will identify a high-risk population of potential civil commitment referrals early on and establish treatment directives that match the offender's risk of reoffense and amenability to treatment. High-risk offenders will be informed at the beginning of their sentences that they are in a potential civil commitment group and that they must complete sex offender treatment during their incarceration (See Figure 6).

Figure 6

Assignment of Offenders to Sex Offender Treatment Programs				
A M E N A B I L I T Y	High	Education or Outpatient	Long Term Intensive	Long Term Intensive*
	Moderate	Education or Outpatient	Long Term Intensive	Long Term Intensive*
	Low	Pre-Treatment	Pre-Treatment	Pre-Treatment
	None	Extended Incarceration	Extended Incarceration	Extended Incarceration
* = DHS Staffed-program in DOC facility		Low	Moderate	High
LIKELIHOOD OF REOFFENSE				

Long-term intensive treatment beds will be reserved for offenders assessed as posing the highest risk for recidivism who also are amenable to treatment. This will include the development of a DHS-staffed program within a DOC facility (represented by Long Term Intensive* in the figure above) specifically aimed at treating potential civil commitment cases. Pre-treatment programming will be developed to improve treatment amenability of low-amenable offenders. Day treatment programming (education or outpatient) will be developed for lower-risk incarcerated offenders. Offenders who refuse, quit, or are terminated from sex offender treatment will face dramatically increased penalties that will extend their term of imprisonment.

The DOC and DHS will establish coordinated clinical strategies for treating these offenders as well as consistent criteria for participation in and completion of treatment, whether the offender is housed in the DOC or DHS. The goal is to develop a "seamless system" for sex offenders from conviction through incarceration/treatment into aftercare and community supervision. It will also provide treatment aimed at specific sub-populations that may not benefit from current cognitive-behavioral programming (i.e., cognitively impaired offenders).

The DOC and DHS will implement an integrated database with a single reporting system. This will allow for regular reports on treatment participation and progress whether the offenders are under the DOC or DHS custody. It will also allow for a cost-benefit analysis of sex offender treatment programs within the DOC and DHS.

Offenders under DOC or county supervision, currently housed at the MSOP, will be required to actively participate in treatment. Treatment refusal or failure will result in an offender being returned to prison, possibly until the expiration of his correctional sentence.

The DOC and DHS will develop a coordinated approach to educate other arms of the criminal justice system (e.g., courts, county attorneys) to the array of sentencing options available to such offenders. The

two agencies will provide expert assessment guidance and assistance to conduct patterned sex offender evaluations and encourage increased use of patterned sex offender sentencing for offenders where appropriate.

Accomplishments to date:

- A process has been established to revoke the release of civilly committed sex offenders who are not participating satisfactorily at the MSOP and are still serving a correctional supervision period. The DOC has assigned one corrections agent to supervise all sex offenders at the MSOP whose criminal sentences have not yet expired. There have been four individuals whose releases have been revoked and who have been returned to prison. Others have had their release restructured and been informed of the requirement to participate in treatment.
- Legislation has been passed to facilitate transfer of non-participating patients from the DHS to the DOC (Minnesota Laws 2000, Chapter 359). It removes the Special Review Board process for such transfers.
- A refined assessment process has been developed that will be used to assess all sex offenders currently in the DOC. This process will also be used to screen all new offenders at intake. Staff have been hired to conduct these assessments. All sex offenders currently incarcerated in DOC facilities will be assessed by June 30, 2001.
- The DOC has consolidated sex offender treatment programming at the MCF-Lino Lakes. Sex offender treatment staff positions formerly at the MCF-Moose Lake have been moved to Central Office and Lino Lakes to begin to assess the current sex offender population and to expand the existing Lino Lakes treatment program.
- The DHS has provided funding for four positions to expand assessment and treatment efforts. These positions will be hired by the DHS but will work in DOC facilities under an interagency agreement.
- DOC and DHS sex offender treatment staff have attended joint training sessions featuring nationally known speakers on Sex Offender Treatment, Relapse Prevention, and Psychopathy.
- A research plan and data collection instrument have been developed to enable in-depth study of civil commitment referrals. Data collection is underway and should be complete by March 2001.
- The DHS will begin to offer MSOP level treatment to high-risk offenders in the DOC on July 1, 2001. The DOC and DHS are currently working on a plan to site such a program. The DHS plans to staff it entirely within existing appropriations.
- This programming, along with increased disciplinary sanctions for offenders who refuse or fail treatment and revocation of conditional release for offenders refusing treatment, is likely to result in a slower growth to the civilly committed SPP/SDP population, thus resulting in the DHS and DOC being able to reallocate current funds toward earlier identification and treatment of sex offenders.
- DOC and DHS staff have jointly presented information about the collaboration to the Minnesota District Judges Association, the Minnesota Association of Community Corrections Act Counties (MACCAC), the Hennepin County Criminal Justice Task Force, the Minnesota Association of County

Social Service Administrators (MACSSA), the Attorney General's Office, the Civil Commitment Defense Project, and several other groups within the state.

Summary: It was the consensus of the group that the DOC and DHS should continue their collaborative efforts. This is an innovative effort between two state agencies to attempt to address the problems posed by the high cost of continuing to civilly commit 18 offenders per year to the DHS, with a very lengthy and slow discharge process. To support this effort, the following recommendations are made:

Recommendation #2:

- a) The DOC and DHS should continue their collaborative efforts and should continue to solicit feedback and opinion from other stakeholders.**
- b) The DOC should continue its efforts to assess the entire existing adult sex offender population at state correctional facilities and to move the civil commitment screening process from the end of an offender's sentence to the beginning. While high-risk offenders will not formally be referred at the beginning of their incarceration, they will be notified that they are likely to be referred at the end of their sentence unless they use their incarceration time productively. County attorneys will also be informed of these high-risk offenders and will receive annual updates.**
- c) The DOC and DHS should develop a satellite location of the MSOP within a DOC facility and focus treatment efforts there on offenders assessed as posing the highest risk for reoffense (potential civil commitment referrals).**
- d) The DOC and DHS should continue other aspects of the collaboration, such as joint training for treatment and security staff, development of a single treatment model across both agencies, and development of a shared database to track activities of the population and outcomes of this new treatment collaboration.**

Surveys of County Attorneys and Judges

Survey of county attorneys: Two surveys were designed with the assistance of county attorneys and mailed to all county attorneys. One survey dealt specifically with obtaining feedback about sex offender sentencing and was answered by county attorneys who had experience prosecuting criminal sex offender cases. The other survey dealt with civil commitment and was answered by attorneys who had participated in civil commitment hearings in the past few years. Responses were received from two-thirds of Minnesota counties.

Sex offender sentencing: In general, county attorneys found all of the extended sentencing options currently available to be useful and valuable tools for managing the sex offender population. These included:

- Patterned Sex Offender sentencing (Minn. Stat. 609.108). This provision requires that offenders found to be a danger to public safety and in need of long-term treatment or supervision be sentenced to at least double the sentence normally recommended under the guidelines, up to the statutory maximum.
- Extended sentences for repeat sex offenders (Minn. Stat. 609.109). These include mandatory sentences ranging from 36 months, to a doubling of the recommended guideline sentence, to a minimum 30-year imprisonment, up to a sentence of life in prison. The longer sentencing options generally apply to offenders whose current offense is 1st or 2nd Degree Criminal Sexual Conduct (CSC) involving force or violence.
- Sentencing offenders to consecutive terms (if the offender is convicted of more than one felony).
- Extended conditional release terms (Minn. Stat. 609.109, Subd. 7). This requires that all sex offenders with a second or subsequent felony sex offense conviction who are sentenced to prison serve a minimum supervised release period of 10 years.

Large majorities of county attorneys also found predatory offender registration and community notification to be useful. Only a minority of county attorneys reported that they believe a return to indeterminate sentencing would be useful.

The 48 county attorneys who responded to this survey reported that, in the last two years, the Patterned Sex Offender sentence was used in less than half of the cases where it could presumably have been used. Circumstances surrounding individual cases such as the quality of evidence, willingness of the victim to testify, treatment options available to the offender, etc., tend to play a role in whether offenders are sentenced under this statute.

County attorneys reported that often the Patterned Sex Offender sentence is used in plea negotiations to encourage the offender to agree to a longer sentence than would have been obtained otherwise. They also have reported a perception that the Patterned Sex Offender sentencing option can be convoluted and the evaluation difficult to obtain. County attorneys are more likely to try to obtain, for example, a double departure over the recommended guidelines sentence. This is seen as much easier to accomplish and still resulting in a lengthy prison sentence for the offender, especially if the conviction is for 1st Degree CSC.

County attorneys also reported that in the last two years they prosecuted a total of 55 offenders who would have been eligible for various extended sentencing options under Minn. Stat. 609.109. They reported that extended sentences were imposed in 35 of the cases (64 percent of the total).

Civil commitment of sex offenders: In general, county attorneys were split in their opinions of civil commitment. For example, about 50 percent reported that they believed that civil commitment is an effective or valuable tool in managing the sex offender population, while about 50 percent were either neutral in their opinion or believed that it was not valuable or effective. Seventy percent of county attorneys who responded to this survey believed that indeterminate sentencing would not be effective with this population. Only 20 percent of the county attorneys reported that the financial burdens associated with the civil commitment process had never influenced their decisions on whether to proceed with a petition for commitment. It is noted that recent statute changes have resulted in earlier referrals that have substantially decreased costs associated with holding offenders after their release from prison.

The following were seen as key factors in influencing the decision of county attorneys to pursue commitment:

- Danger posed to the community
- Likelihood of a reoffense
- High number of prior convictions
- The strength of the evidence that the offender had a course of harmful sexual conduct, had a mental abnormality, and was likely to repeat his/her offense
- Consultation with psychological experts and the attorney general's office resulted in a consensus that commitment should be pursued

In cases where commitment was not pursued, the following were key factors:

- Insufficient evidence of harmful sexual conduct
- Victim request that commitment not be pursued
- Offender was not a resident of the county, or the commitment was taken up by another county
- Offender was deported or accepted for supervision by another state
- Consultation with psychological experts and the attorney general's office resulted in a consensus that commitment should not be pursued
- Financial considerations affected a non-referral in a case that was already seen as weak

County attorneys made the following suggestions for improving the civil commitment process:

- Have the state assume all financial responsibility, both before and after the civil commitment hearing
- Make referrals even earlier; evaluate offender early in prison stay and inform of eligibility for commitment
- Train judges and county attorneys so that there are more uniform standards regarding the sufficiency of evidence and how to handle such cases

Survey of judges: Two surveys were designed with feedback from members of the judiciary and mailed to all 255 district court judges. Many of these judges do not preside over sex offense trials or sex offender civil commitment proceedings; still, over 100 responses were received. As with the surveys sent to county attorneys, one survey dealt specifically with sex offender sentencing issues and the other dealt with civil commitment issues.

Sex offender sentencing: In general, judges found all extended sentencing options currently available to be useful and valuable tools for managing the sex offender population. These included:

- Patterned Sex Offender sentencing (Minn. Stat. 609.108)
- Extended sentences for repeat sex offenders (Minn. Stat. 609.109)
- Sentencing offenders to consecutive terms (if the offender is convicted of more than one felony)
- Extended conditional release terms (Minn. Stat. 609.109, Subd. 7)

Large majorities of judges also found predatory offender registration and community notification useful. Only a minority reported that they believe that a return to indeterminate sentencing would be useful.

Judges reported that high-quality pre-sentence investigations and pre-sentence psychosexual evaluations are vital to providing them information to sentence sex offenders appropriately.

Judges made the following recommendations for improving the current system of managing sex offenders:

- Longer and more intensive community supervision, both for probationers and offenders on supervised or conditional release
- More probation officers to accomplish the above
- Increased funding for treatment of offenders (although a few judges reported that they didn't believe that treatment was effective in reducing recidivism)
- More treatment options
- Better evaluation (both statewide and national) of treatment programs and more training for judges on the results of these evaluations
- Longer prison sentences, especially for the highest risk sex offenders (a minority did report support for indeterminate sentencing of sex offenders)

One final note: Consistent feedback was received from judges and county attorneys that they would not welcome more mandatory sentences or special sentencing options to attempt to target the very select group of sex offenders who are ultimately referred for civil commitment. There also does not appear to be much support for an "across the board" lengthening of sentences or changes that would take sex offender sentences off the guidelines.

Information about Civilly Committed Offenders

As of January 1, 2000, the DOC had referred 287 offenders to county attorneys for the possibility of civil commitment; of these, 135 were committed. Thus, 152 offenders who had been referred by the DOC were released to the community.

Comparison of criminal sentences received by committed offenders with sentences received by offenders referred but not committed: Offenders who are referred for civil commitment receive significantly longer pronounced sentences than offenders who are not referred. The average pronounced sentence length for all sex offenders released from DOC correctional facilities in 1997, 1998, and 1999 was 54 months. Sex offenders referred but not committed received significantly longer sentences (mean = 83 months), while offenders referred and committed received the longest sentences of all (96 months).

A study of 115 offenders referred by the DOC who were committed, and for whom data were available, revealed that 55 (48%) had received a pronounced sentence that was within the presumptive range according to sentencing guidelines. Thirty of these offenders (26%) had received a sentence that was an aggravated durational departure (longer than the presumptive range according to sentencing guidelines). Of these 30 offenders, seven had been sentenced as Patterned Sex Offenders. Finally, seven (6%) received sentences that were consecutive to other sentences.

On the other hand, 15 offenders (13%) had received sentences that were shorter than the presumptive guidelines sentence (mitigated durational departures), and eight (7%) had received the presumptive sentence but a mitigated disposition (the offender was placed on probation, which was later revoked and the offender sent to prison).

Use of patterned sex offender sentencing and other mandatory sentences for repeat sex offenders:

As mentioned above, only seven of the 115 civilly committed offenders had been sentenced under the Patterned Sex Offender sentencing statute (Minn. Stat. 609.108). It is difficult to determine why, in each individual case, longer sentencing options were not utilized. However, results from the surveys discussed above and from several meetings with county attorneys throughout the state revealed the following general reasons for the relatively infrequent use of this sentencing option:

- Almost all of these convictions were obtained through the plea negotiation process. Offenders are reluctant to plead guilty if they know they will be sentenced as Patterned Sex Offenders.
- In many of these cases, offenders received sentences that were significantly longer than the presumptive guidelines sentence.
- A significant number of these offenders were sentenced in the mid to late 1980s, prior to enactment of this sentencing option.
- Criminal justice personnel may lack familiarity with the Patterned Sex Offender sentencing option and other longer sentencing options and thus be reluctant to use it.
- Mitigation factors may have been present at time of sentencing. For example, the offender may have been seen as particularly amenable to treatment and probation supervision or as having an impaired capacity to make judgments.
- The victim may have requested that the offender not receive such a long sentence.

Factors accounting for whether persons referred were or were not civilly committed: As with the use of the Patterned Sex Offender sentencing option, it is difficult to determine why, in each individual case, commitment was not pursued. The DOC actively seeks information on all current referrals as to why

commitment is not pursued. Most often the DOC is told that the case would be difficult to prove legally due to a lack of available witnesses and evidentiary problems. At times, the offender is seen as likely to reoffend but his/her course of harmful sexual behavior is seen as significantly less severe than is typical for cases that are pursued. The surveys also revealed insight into this decision-making process. A detailed response is available above in the section describing the survey results.

Supervision options being used for offenders referred but not committed: Offenders who are referred but not committed are always designated as Level 3 offenders for community notification purposes. Approximately 75 percent of Level 3 sex offenders are released to halfway houses. It is reasonable to expect that, if more halfway house beds were available on a statewide basis, all Level 3 offenders would first be released to halfway houses.

Following release from prison or a halfway house, Level 3 offenders are almost always placed on Intensive Supervised Release. This is a yearlong program in which a team of corrections agents with very small caseloads has a minimum of four face-to-face visits per week during the first three months. Offenders are also subject to frequent and random Breathalyzer tests and urinalysis to detect possible substance abuse, electronic monitoring, and strict curfews or house arrest. As an offender shows responsibility, these controls are gradually lessened and, after a year, the offender is typically placed on a regular supervision caseload.

It is noted that the 2000 Minnesota Legislature appropriated increased funding for Intensive Supervised Release and for specialized sex offender caseloads. This has greatly increased these options on a statewide basis.

In many parts of the state, released sex offenders are supervised on specialized caseloads. Corrections agents who supervise sex offenders typically have a high level of experience and training in dealing with the sex offender population. They work in collaboration with treatment providers in the community. Almost all released sex offenders are required to attend post-release treatment programming for four to six months.

Outcomes, including recidivism: Follow-up information was available on 128 of the 152 offenders referred by the DOC who were released to the community. A check with Minnesota BCA records in March 2000 revealed that 17 of these 128 offenders were known to have been arrested for a new sex offense. Because these offenders have had widely differing times "at risk," the overall percent of reoffense is difficult to interpret. However, if one looks back on a year-by-year basis at all of the referred offenders released so far, rearrest for a new sex offense ranges from 13 percent to 20 percent.

The overall rearrest rate for this sample was higher. Forty of the 128 offenders, or 30 percent, were rearrested for felony level offense (including all sex, person, property and drug arrests).

The sex offense rearrest rate appears to be fairly comparable to the sex offense rearrest rate found in the sample of 1992 sex offender releasees mentioned above. The overall sex offense rearrest rate for that sample was 18 percent after an average of 6.5 years on release status.

Summary: It appears that attempting to target just the very small group of offenders who are potentially eligible for civil commitment referral with longer sentencing options (particularly mandatory sentences) would probably not result in elimination of the need for civil commitment of a select, high-risk group of sex offenders. The consensus of this group was that, rather than imposing new sentencing options, efforts should be made to better utilize the options that already exist.

To that end, the work group makes the following recommendation:

Recommendation #3: The legislature should pass legislation currently being proposed by the DHS that would require patterned sex offender evaluations be performed pre-sentence for all repeat sex offenders. It is noted that almost half of the civilly committed offenders studied above were eligible for the 36-month mandatory sentence for repeat sex offenders. Thus it is reasonable to assume that in at least half of potential civil commitment cases a patterned sex offender evaluation would be done. It is likely that this would eventually help to lower intake into the MSOP, as it would provide more opportunities for county attorneys and judges to use the patterned sex offender statute.

Legislative language (new language underlined):

609.3452 Sex offender assessment.

Subdivision 1. **Assessment required.** When a person is convicted of a violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a charge based on one or more of those sections, the court shall order an independent professional assessment of the offender's need for sex offender treatment. The court may waive the assessment if: (1) the sentencing guidelines provide a presumptive prison sentence for the offender, or (2) an adequate assessment was conducted prior to the conviction. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of sex offenders.

Subd. 2. **Minnesota Security Hospital Assessment Required.** When a person is convicted of subsequent violations of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a charge based on one or more of those sections, the court shall order a sex offender assessment to be completed by the Minnesota Security Hospital. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The conclusion may not be based on testing alone.

Subd. 3. ~~2.~~ **Access to data.** Notwithstanding section 13.42, 13.85, 144.335, 260B.171, 260C.171, or 626.556, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

- (1) medical data under section 13.42;
- (2) corrections and detention data under section 13.85;
- (3) health records under section 144.335;
- (4) juvenile court records under sections 260B.171 and 260C.171; and
- (5) local welfare agency records under section 626.556.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

Subd. 4. ~~3.~~ **Treatment order.** If the assessment indicates that the offender is in need of and amenable to sex offender treatment, the court shall include in the sentence a requirement that the offender undergo treatment, unless the court sentences the offender to prison.

Fiscal note: The DHS and DOC intend to fund this effort out of existing revenues. Thus, no fiscal note is necessary.

Appendix A: Minnesota Laws 2000, Chapter 359 (Senate File 2858)

Effective April 12, 2000:

Subdivision 1. [REPORT REQUIRED.] By December 15, 2000, the commissioner of corrections, in consultation with the commissioner of human services, the attorney general, the chief justice of the supreme court, and the sentencing guidelines commission, shall report to the chairs and ranking minority members of the legislative committees and divisions having jurisdiction over criminal justice policy and funding as required by this section. Recommendations requiring legislative action must include draft language and preliminary fiscal notes.

Subd. 2. [SEX OFFENDER POLICY AND MANAGEMENT OVERSIGHT.] The report must include a plan for the establishment of a sex offender policy and management oversight group to monitor, review, and evaluate all aspects of the state's system of responding to sexual offenses; identify system problems and develop solutions; provide research and analysis for state and local policymakers and criminal justice and corrections agencies; and recommend policies and best practices that will reduce sexual victimization and improve public safety in the most cost-effective manner possible. The commissioner of corrections shall explore alternative models for the oversight group and recommend a structure that will provide for system wide collaboration; inclusion of experts in the assessment, sentencing, management, and treatment of sex offenders; adequate staff resources to accomplish long-range oversight of a complex system; and effective support for policy decisions.

Subd. 3. [CORRECTIONS AND HUMAN SERVICES COLLABORATIVE WORK GROUP.] The report must include the results and future work plan of the joint department of corrections and human services collaborative work group.

Subd. 4. [INFORMATION ABOUT CIVILLY COMMITTED SEX OFFENDERS.] The report must include an analysis of the cases of: (1) the individuals currently civilly committed under Minnesota Statutes, section 253B.185, as persons with sexual psychopathic personalities or sexually dangerous persons; and (2) those individuals referred by the department of corrections to county attorneys for possible civil commitment, but who were not committed. The analysis must include:

- (i) the criminal sentences received by the individuals in both groups and to the extent possible, why individuals did not receive criminal sentences under Minnesota Statutes, sections 609.108 (mandatory increased sentences for certain patterned and predatory sex offenders) and 609.109 (presumptive and mandatory sentences for repeat sex offenders);
- (ii) factors accounting for whether persons referred by the department of corrections were or were not civilly committed; and
- (iii) the supervision options being used for those individuals referred but not committed and, if possible, their outcomes, including recidivism.

Subd. 5. [SEX OFFENDER SENTENCING PRACTICES.] The report must include an analysis by the sentencing guidelines commission of sex offender sentencing practices over the last decade; implementation of sentencing authority and sentencing mandates under Minnesota Statutes, sections 609.108 and 609.109, including, to the extent possible, the factors involved in cases in which these laws could have been but were not applied; and recommendations, if any, to improve implementation of these laws.

Appendix B: Membership of Sex Offender Policy and Management Oversight Work Group

Stephen Huot, Chair – Department of Corrections
Judge Ann Alton – Minnesota Judicial System
Theresa Couri – Attorney General’s Office
Mike Tessner – Department of Human Services
Debra Dailey – Sentencing Guidelines Commission
Ray Schmitz – County Attorneys’ Association
Bill Donnay – Department of Corrections
Maren Fustgaard – Department of Human Services
Cheryl Johnson – Department of Human Services
Frank Milczark – Department of Human Services
Tom Ruter – Department of Human Services
Joyce Carlson – Department of Corrections
Anne Wall – Sentencing Guidelines Commission

Others who attended meetings:

Phil Carruthers, Ramsey County Attorney’s Office
Steve McLaughlin, Ramsey County Attorney’s Office
John Kirwin, Hennepin County Attorney’s Office
Carolyn Peterson, Hennepin County Attorney’s Office
Sue Carter, Minnesota Sentencing Guidelines Commission
Dr. Michael Farnsworth, Department of Human Services

Appendix C: A Comparison of How Different States Manage Their Sex Offender Populations

COLORADO

Colorado does not civilly commit sex offenders. Instead, a law created in 1998 that stipulates lifetime supervision of certain sexual offenders (called Sexually Violent Predators, or SVPs) is utilized. It is important to note that in Colorado an SVP is defined differently than a Sexual Psychopathic Personality or a Sexually Dangerous Person (SPP/SDP) in Minnesota. The SVP law in Colorado requires that an offender be convicted of a “predatory act” which means that incest offenders and some other types of sex offenders are not considered for lifetime supervision. Currently there are approximately 50 to 60 individuals under lifetime supervision. Recently there have been constitutional challenges in the courts to lifetime supervision. The Colorado Supreme Court ruled in September 2000 that portions of the lifetime supervision law could not be applied to some offenders due to conflicting laws passed in the 1970s. Some sex offenders were relieved of lifetime supervision by a court ruling, although a temporary injunction has resulted in reinstatement of these offenders as SVPs.

Colorado has established a Sexual Offender Management board (SOMB) to oversee issues related to the sexual offender population. The SOMB was patterned after a previously formed Multi-Agency Board for Drug and Alcohol in Colorado. The 20-member SOMB was created in 1992 in response to legislation surrounding Megan’s Law, the Wetterling Act, and the Lychner Act. The initial purpose of the SOMB was to develop a risk assessment tool. The SOMB has more recently developed standards and guidelines for the assessment, evaluation, treatment and behavioral monitoring of adult sex offenders as well as criteria, protocols and procedures for community notification regarding sexually violent predators. The function of the SOMB has changed at the direction of the legislature. Legislation provides authority for the SOMB to fully carry out its functions.

Conversations with members of the Colorado SOMB indicated that board members are satisfied with the functions and makeup of the board. However, members described some difficulties in getting board consensus on difficult issues and ensuring qualified persons were available to represent rural areas. Problems were noted in assessing the model of supervision currently used for sex offenders on lifetime supervision. Colorado SOMB members suggested that states considering establishing a state board ensure that committed, responsive, and well-organized administrative staff are hired to provide support to the board. They also suggested that a broad range of groups and constituencies receive representation on such a board and that members of these groups be regularly invited to meetings.

ILLINOIS

Illinois uses civil commitment as one method of managing the sex offender population. Currently there are 60 sex offenders under civil commitment in Illinois, with a total of 140 petitions filed currently.

In 1997, Illinois statute created a Sexual Offender Management Board (SOMB). The Illinois SOMB was closely modeled after Colorado’s SOMB. The first meeting of the board did not occur until March 2000. Its initial function is to develop professional standards and conduct research on sex offenders. A goal of the board is to be able to impact legislation. The bulk of the work that happens on the board is done through subcommittees. At this point in time, professional standards and research tasks have not been completed.

Initially some difficulties were encountered in creating the board, particularly in the appointment of board members. High-level administrative staff were appointed, but often send designees instead of attending personally. Also, some board positions are still vacant, which has caused some frustration. So far, the board has been able to reach consensus on most issues. However, there are concerns about whether this consensus will be maintained when more controversial issues are discussed. It has not yet been decided if board appointees will have voting power. Also, there are questions about whether board members should vote independently or strictly as representatives of the official position of the agency that they represent.

Although difficulties are inherent in any implementation process, the SOMB reports that it has made progress achieving its goals. Subcommittees are used to get most of the work done. In the future, the board may need to add members (i.e., polygraph examiners) and may need to ask the legislature for more clearly defined statutory language for implementation of such functions as professional standards.

Illinois SOMB members suggested that states considering establishing a state board ensure that statute(s) have clearly written language for implementation of the board and its policies and provide appropriate authority to the board. They recommend that members be involved as early as possible and that all board members be appointed before the first meeting is held.

IOWA

Iowa uses civil commitment as one method of managing the sex offender population. Currently there are 12 sex offenders under civil commitment in Iowa.

In 1987 Iowa began to see a need for collaboration, coordination, and a central point place for information regarding the sexual offender population. A voluntary multi-disciplinary committee geared toward helping to manage the sexual offender population was created in response to this need. This committee served to encourage collaboration and develop sex offender program standards. When this committee was founded, its guiding principles were taken from standards established by the Association for the Treatment of Sexual Abusers (ATSA) as well as from substance abuse programs in Iowa. The committee slowly evolved into a 20-member non-profit board which was formally created in 1992 - the Iowa Board for the Treatment of Sexual Offenders (IBTSA).

The IBTSA continues to provide program standards, professional certification, and a collaborative effort as well as providing professional development. Currently there are 300 certified providers and 18 sex offender treatment programs throughout the state. IBTSA is not codified in any state code; therefore, the legislature does not provide any real authority to the board. However, this has not been problematic to this point. A board member stated that legislators, treatment providers, corrections officials, and other stakeholders respect the IBTSA and that its authority in establishing standards and providing training has not been questioned. This board member also said that it would be helpful to have legislative authority.

All initiatives relating to sex offenders go through the IBTSA for approval. The IBTSA responds to and promotes legislation in Iowa relating to sexual offenses/ offenders. The board seems to drive legislation within the state. Very recently, the IBTSA has taken on the responsibility for providing standards for juvenile sex offender programs. A juvenile issues subcommittee has been established to undertake this effort.

PENNSYLVANIA

Pennsylvania does not civilly commit sex offenders, but like Colorado has enacted a law to order lifetime registration for persons deemed “Sexually Violent Predators” (SVPs). Lifetime registration for SVPs can consist of having a photo taken on a quarterly basis, being ordered to attend counseling once per month, and community notification. The constitutionality of the law has been challenged. Approximately 200 SVP designations were overturned in Summer 2000 due to these challenges. Following this, the law was rewritten and appears to meet constitutional standards, but no sex offenders have yet been designated as SVPs.

Pennsylvania established a Sex Offender Assessment Board to assist in managing this population. The 50-member board was created in 1995 in response to Megan’s Law and other federal legislation. The function of the board is generally to approve treatment of SVPs. Currently the members are working on developing treatment standards but have no published work at this time. Most of the work that comes out of the board is done through subcommittees. The board is funded through the legislature and housed in the state probation and parole agency to receive support services. It still operates as an independent agency. Legislation provides authority to the board and influences the board more than the board influences legislation. However, the board is kept up-to-date on legislative activities.

TENNESSEE

Tennessee does not civilly commit sex offenders but instead recently enacted legislation establishing lifetime supervision for a select group of offenders. This is a new development for Tennessee and it has not yet been implemented. Offenders who will be sentenced to lifetime supervision will be closely supervised and required to attend sex offender treatment and undergo four polygraph examinations per year. Civil commitment was considered as an option for sex offender management in Tennessee. However, due to high costs associated with civil commitment, the decision to use lifetime supervision was made.

Tennessee also has established a 13-member Sexual Offender Treatment Board, created in 1995. The board meets monthly for two to six hours. This board was authorized by the legislature; however, some board members believe that the SOTB may need to request an increase in authority as its functions increase. The initial goal of the board was to develop best practice guidelines for treatment providers. These guidelines have been developed and are in use throughout the state. These guidelines are not considered to be as strict as certification standards or promulgated rules. Treatment providers must attend a four-day training session and sign a contract stating that they will adhere to the guidelines. Programs that do not subscribe to the guidelines are not shut down; however, they may not get referrals from judges. Board members state that the board will be developing stricter professional standards and measuring outcomes of the current guideline system within the next year. Another task the board will be assuming in the future is to address issues related to juveniles in sex offender treatment. The board tracks legislation and provides a coordinated response to the legislature. Currently, the board acts as a consultant to the legislature and other groups. It is looked at as the center point for information regarding sexual offender treatment issues. Standard practices have also been developed for risk assessment, notification, and registration. All in all, board members report that they have been well received in Tennessee. The board is seen as having provided a more coordinated service that was not available prior to its creation.

Challenges the Tennessee SOTB has faced include lack of funding for the board and lack of time and administrative support to function in a more efficient manner.

WASHINGTON

Washington is the only state which, compared to Minnesota, has a longer history of civilly committing sex offenders following incarceration.

An End of Sentence Review Committee provides consistent risk assessments of sex offenders. This committee was authorized by statute. Washington has also established certification standards for professionals who treat sex offenders. These standards are set and enforced by the state Department of Health, which licenses other professionals (e.g., psychologists, nurses). Therapists who wish to provide sex offender treatment programming must be certified by the state. Unlike the other states' boards, Washington utilizes this committee strictly for risk assessment, not for collaboration and coordination.

The civil commitment treatment center for the state of Washington is located inside a prison and has been the subject of numerous lawsuits in the past several years.

WISCONSIN

Wisconsin uses civil commitment as a means of managing the sexual offender population. Civil commitment laws in Wisconsin apply to adolescents as well as adults. Currently approximately 170 to 180 sexual offenders are under civil commitment in Wisconsin. The assessment process for civil commitment in Wisconsin is quite similar to the process Minnesota has been using.

There is no board in Wisconsin that serves to manage the sex offender population. However, an interagency meeting was created approximately five years ago to help address implementation issues and legal challenges associated with the civil commitment law. This bi-monthly meeting consists of 25 members, with representation from the Department of Corrections, Department of Health and Family Services, the judiciary, the Attorney General's Office, and county attorneys. Members describe this meeting as moderately successful in establishing open lines of communication and sharing training.

Approximately two years ago Wisconsin adopted a quality certification model for sex offender program certification. This model is program-based and was originally developed by the British correctional system. Currently in Wisconsin some monitoring of treatment program availability and effectiveness is provided by the Wisconsin Resource Center. There are standard practices in place for risk assessment, registration, and notification.

STATE BOARD COMPARISONS

states with underline have civil commitment

	<u>IA</u>	<u>IL</u>	<u>WI</u>	<u>WA</u>	CO	PA	TN
Minnesota components include:							
Legislation	X	X		X	X	X	X
Track major issues	X				X		X
Coordinated response to legislature	X				X		X
Legislature provides authority to the board		X		X	X	X	X
Provide coordinated effort	X	X	X	X	X	X	X
Single entry point for information	X	X			X		X
Systematic way of getting people together	X	X	X	X	X	X	X
Standard Practices / Policies / Procedures for SOP	X	X	X	X	X	X	X
Professional certification	X	X		X	X		
Best practice guidelines for professionals							X
Program certification	X		X				
Risk assessment	X	X	X	X	X	X	X
Notification/registration	X	X	X	X	X	X	X
Annual report required							
Research		X			X		
Other facts							
Number of civilly committed individuals	12	60	180	131	0	0	0
Individuals under lifetime supervision/registration	0	0	0	0	50	0	50
Date board was created (by statute or otherwise)	1992	1997	Committee	1989	1992	1995	1995
Date board was implemented	1992	2000	1995	1989	1992	1996	1995
Number of people on board	29+	20	25	12	20	50	13

Appendix D: Minnesota Sentencing Guidelines Commission Report on Sentencing Practices: Criminal Sexual Conduct (CSC) Offenses

Felony offenders sentenced in last decade: This report summarizes sentencing practices for felony level sex offenses during the last decade. The emphasis is on data from 1998 and 1999. Information on sentencing practices from 1988-1999 is provided in the tables. This report also contains information on the use of special statutory sentencing provisions (including the patterned sex offender provision).

Data Sources

The data examined in this summary are from the MSGC monitoring system containing cases sentenced in 1999. These are preliminary data. One of the primary functions of the MSGC is to monitor sentencing practices. The monitoring system is designed to maintain data on all offenders convicted of a felony and sentenced under the guidelines. A case is defined when conviction data are received from the probation officer and matched with sentencing data from the State Judicial Information System. Cases generally represent offenders. An offender sentenced in the same county on more than one offense within a 30-day period is counted as one case.

Sex offense statutes and sentencing policy: Minnesota adopted a sentencing guidelines system effective May 1, 1980, in an effort to create a more uniform and determinate sentencing system. The guidelines provide a structure for district courts to use in sentencing people convicted of felony-level offenses.

The guidelines recommend sentences for the typical case based on the severity of the offense of conviction and the offender's criminal record. Judges may depart from the recommended sentence if the circumstances of a case are substantial and compelling. The court must provide reasons for the departure. Both the prosecution and the defense may appeal the pronounced sentence.

Regardless of whether the judge follows the guidelines, the sentence is fixed. An offender who is sentenced to prison will serve a term of imprisonment equal to two-thirds of the pronounced executed sentence. The remaining one-third of the sentence will be served on supervised release. The actual time the offender is incarcerated may be increased (up to the total sentence) if the offender violates disciplinary rules.

In addition to the sentencing guidelines, there are also a number of statutory provisions that directly affect the sentencing of sex offenders.

Sex Offense Statutes: General Structure

Under Minnesota law, sex offenses are categorized into five degrees of Criminal Sexual Conduct (CSC), with first degree being the most serious. The classification of offenses into degrees is based on a combination of factors:

- whether the offense involved sexual penetration or contact;
- age of the victim;
- relationship of the offender to the victim (e.g., position of authority, significant relationship, psychotherapist, etc.);
- degree of injury or threat of injury;
- whether a weapon was involved; and
- whether force or coercion was involved.

Most of the provisions at first degree involve penetration and focus on personal injury, fear of great bodily harm, and the use of a dangerous weapon. First-degree also includes offenses involving young children, regardless of whether any injury, force or weapons were involved. Second-degree offenses are similar, but involve sexual contact rather than penetration.

Effective August 1, 1995, some sexual contact offenses were also categorized as first-degree offenses. These offenses involve the more serious forms of sexual contact with victims who are under 13, as defined in M.S. 609.341 subd. 11.

Third-degree offenses involve penetration and focus on children who are slightly older and on cases where there was force or coercion. The use of a weapon or the threat of great bodily harm is not a necessary element of the offense. Third-degree offenses also include cases involving psychotherapists, health professionals, and clergy. Fourth-degree offenses are similar, except that they involve sexual contact rather than penetration.

There are some felony-level fifth-degree offenses. They involve repeat violations of gross misdemeanor indecent exposure offenses involving minors.

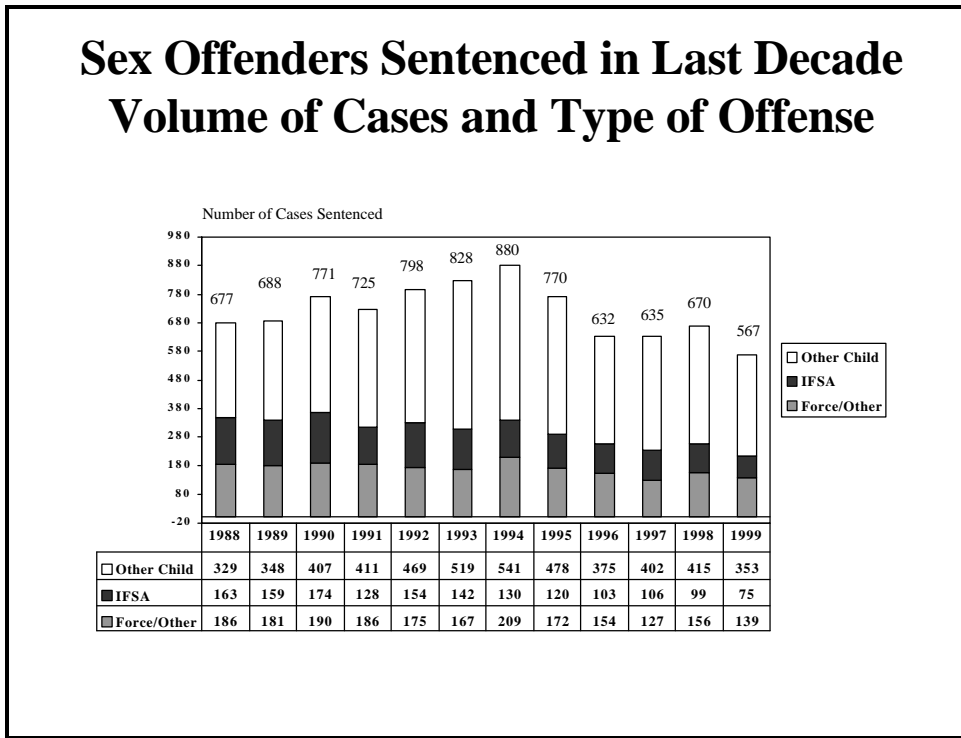
Relationship Based Classifications:

Sentencing practices differ based on the relationship between the victim and the offender. To assist in analyzing and interpreting information on sentencing patterns, sex offense cases examined for this report were assigned to the following categories, based on the statute of conviction:

- IFSA (Intra-familial Sex Abuse): Conviction for a subdivision, which specifies that the offender had a significant relationship to the victim.
- Other Child: Conviction for a subdivision that specifies that the victim is a minor but does not specify that there was a significant relationship. Subdivisions that specify that the offender be in a position of authority over the victim are included here because, in addition to parents, those offenses include persons acting in the place of a parent.
- CSC Force or Other: Force or a weapon was involved or the offense involved abuse by a psychotherapist, health care professional, or clergy or a felony-level fifth-degree offense. The provisions do not specify the age of the victim or the relationship of the offender to the victim. Some of the victims of these offenses are also children.

It is important to note that in reality an offense may fit into more than one category. For example, 24 percent of the Other Child offenses sentenced in 1999 involved family members, as did 17 percent of the Force/Other cases. In 29 percent of the CSC Force cases the victim was under the age of 18. For a complete breakdown of sex offenders sentenced in the last decade by type of offense, see Figure 1 below.

Figure 1



Sentencing Guidelines for Sex Offenders

All first-degree CSC offenses that involve penetration are ranked at severity level 8 and are recommended prison, regardless of the offender's criminal history score. The length of the recommended sentence ranges from 86 months at a history score of zero to 158 months at a score of six. Effective August 1, 2000, the presumptive sentence for all first-degree offenses was increased to 144 months.

In 1999 there were 12 first-degree CSC offenses that involved sexual contact with children under the age of 13. These cases are ranked at severity level 7, one severity level lower than the first-degree CSC offenses that involve penetration, but prison is still the presumptive disposition for all of these cases regardless of the offender's criminal history score. The length of the recommended sentence ranges from 48 months at a history score of zero to 108 months at a score of six. The presumptive sentence for these offenses also became 144 months on August 1, 2000.

For the other degrees, the assigned severity level depends on the statute of conviction. In general, provisions involving force are ranked at higher severity levels. Second and third-degree offenses, which involve force, are ranked at severity level 7 and are recommended prison, regardless of the offender's criminal history score. The length of the recommended sentence ranges from 48 months at a history score of zero to 108 months at a score of six.

Distribution of Cases: The number of offenders sentenced for sex offenses in the last decade has ranged from a low of 632 in 1996 to a high of 880 in 1994. Preliminary data indicate that there were 567 offenders sentenced for sex offenses in 1999, the lowest number of offenders sentenced for sex offenses since 1983 when 477 sex offenders were sentenced. The 1999 figure is a 15 percent decrease from the number of sex offenders sentenced in 1998 (670).

Type of Offense

The distribution of cases between the relationship categories has remained fairly stable over the last decade. In 1999, 75 of the 547 cases sentenced (13%) were IFSA, 353 (62%) were Other Child and 139 (25%) were Force/Other. In the Force/Other category, 137 of the 139 cases (99%) were offenses involving force.

The distribution of cases among the 5 statutory degrees has also not varied much from year to year. In 1999, 22 percent of the Criminal Sexual Conduct cases sentenced were first-degree offenses, 27 percent were second-degree offenses, 32 percent were third-degree offenses, and 17 percent were fourth-degree offenses. There were no felony fifth-degree offenses sentenced in 1999.

Victim Characteristics

Information on victim characteristics comes primarily from the Minnesota Offense Codes (MOCs). If available, the information was taken from the statute of conviction in cases where the MOC information was unclear or missing. In 1999, 37 percent of the cases involved victims under the age of 13, 45 percent involved victims who were 13-17 years old, in 16 percent of the cases the victims were adults, and in two percent of the cases the age of the victim was unknown.

A relatively small percentage of these cases involved strangers (6% in 1999). In 1999, in 50 percent of the cases, the offender was an acquaintance, six percent of the cases involved offenders who were in a position of authority, and 31 percent of the cases involved family members. Of the cases sentenced under the force provisions, 19 percent involved assaults by strangers.

True Prior Record

Most offenders sentenced for felony-level sex offenses do not have "true" prior sex offenses in their criminal record. "True priors" are prior offenses with a conviction date prior to the date the current offense was committed. In 1999 only nine percent of sex offenders had a true prior felony sex offense listed on their sentencing worksheet. The figures vary slightly by the type of sex offense. Twelve percent of the offenders in the Force/Other category had a prior sex offense, whereas only three percent of the offenders in the IFSA category had a prior sex offense listed on their worksheet.

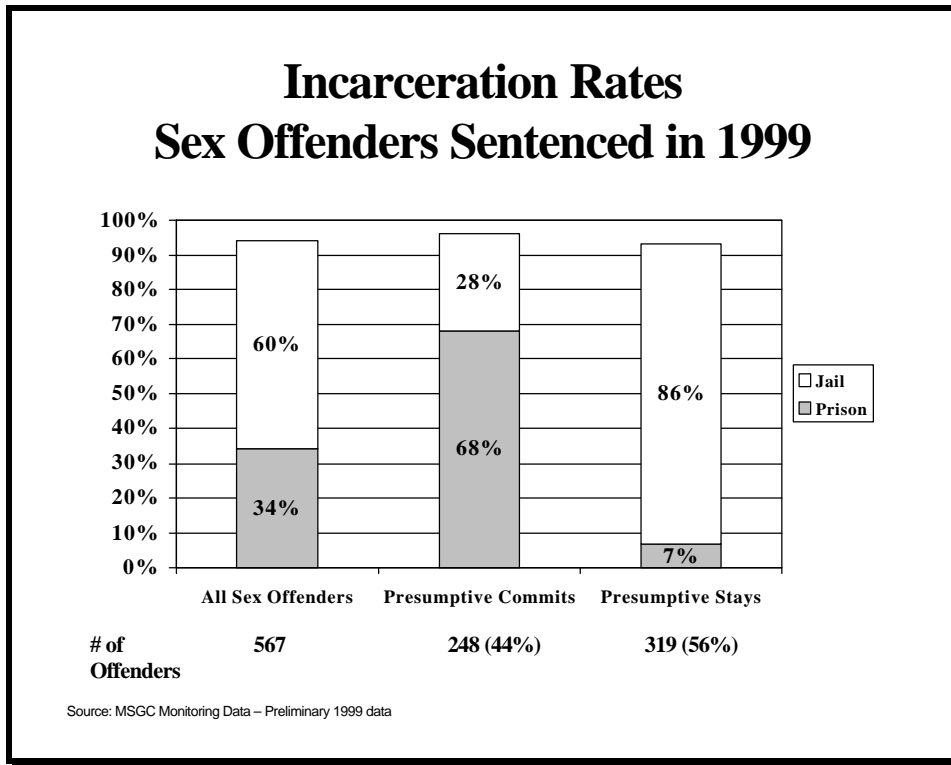
Sentencing Practices: The recommended sentence under the guidelines varies by the severity level of the conviction offense and the offender's criminal history. These differences make it difficult to interpret overall sentencing information for sex offenders. This section of the report, therefore, while reporting the overall statistics, also presents data separately for presumptive commits (those cases for which the guidelines recommend prison) and for presumptive stays (those cases for which the guidelines recommend probation). Information on sentence durations is presented by severity level and type of sex offense.

Incarceration Rates

Information is presented on the number of offenders incarcerated in state prison or in local workhouses and jails. Offenders who receive a probationary sentence can have up to one year of local jail time pronounced as a condition of their probation. The total incarceration rate for sex offenders sentenced in 1998 was 94 percent. The total incarceration rate has been greater than 90 percent throughout the past decade. The percent of offenders sentenced to prison tended to fluctuate around 30 percent in the early and mid 1990s. In 1998 that rate rose to 38 percent and in 1999 34 percent of the offenders sentenced for sex offense received an executed prison sentence. The imprisonment rate for offenders sentenced in 1999

who had a true prior sex offense was 91 percent. In 1999, 91 percent of the sex offenders who received a stayed sentence also received pronounced jail time as a condition of probation (see Figure 2 below).

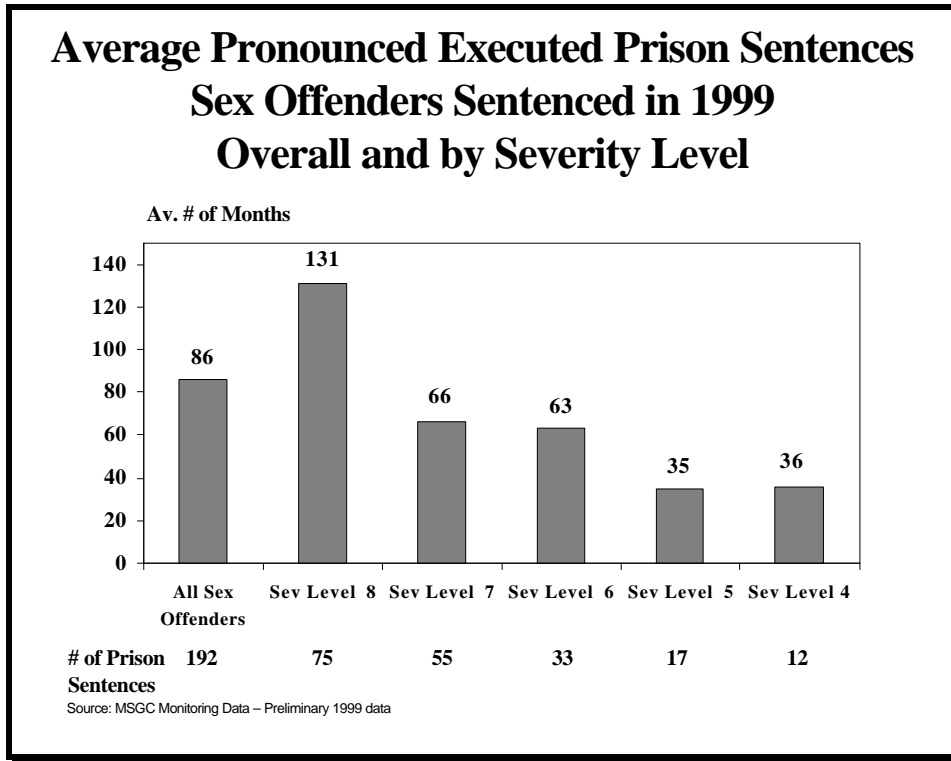
Figure 2



Sentence Durations

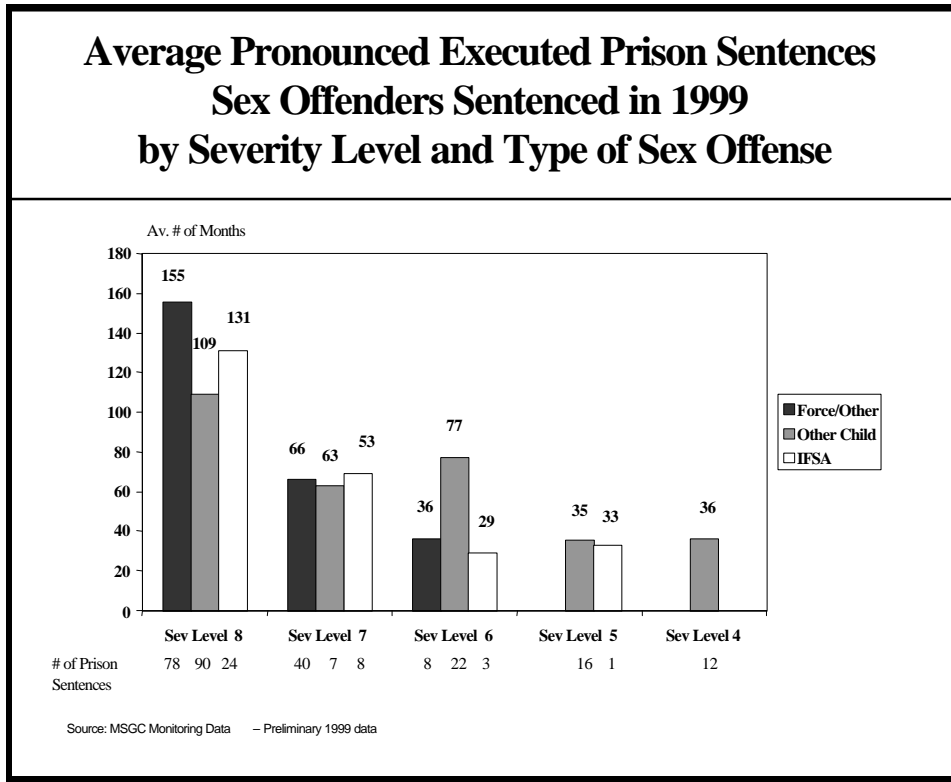
The average pronounced duration in months is presented for offenders who received executed prison sentences. The MSGC substantially increased presumptive durations for the most serious sex offenses committed after August 1 of 1989. The average duration of prison sentences for offenders sentenced in 1988 before any of those changes went into effect was 54 months. The average pronounced prison sentence for sex offenders sentenced in 1999 was 86 months. In the last decade this average duration has ranged from 78 to 89 months. Offenders convicted of severity level 8 offenses received far longer sentences than those received by offenders convicted of lesser severity level offenses (see Figure 3 below). For more detailed information on average sentence durations over the past 12 years, see Table 2.

Figure 3



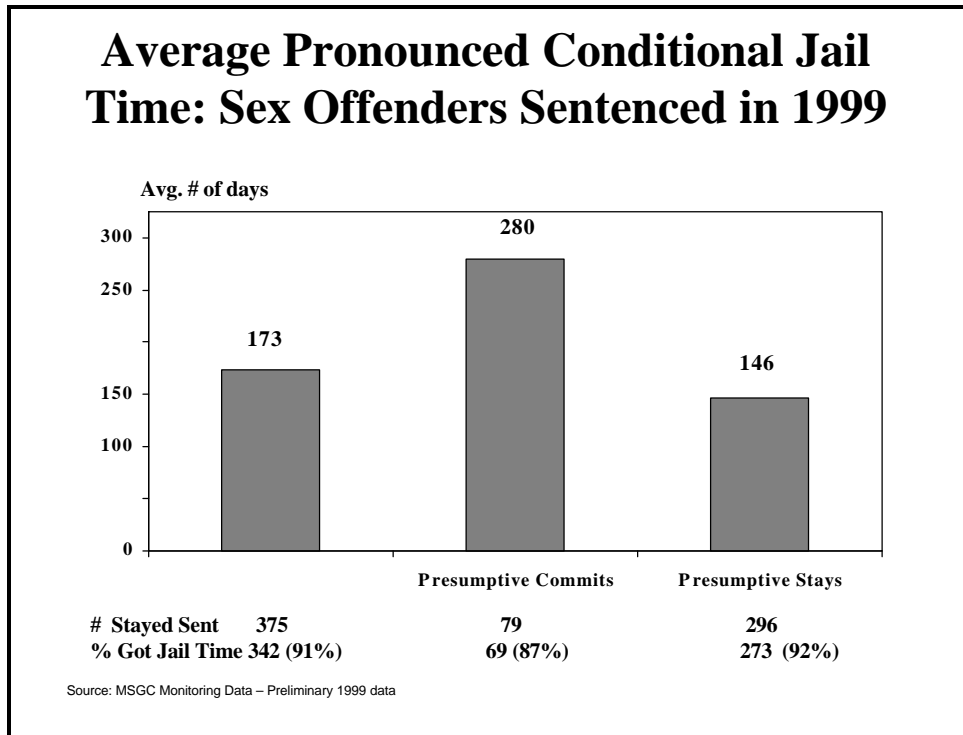
Even within a severity level, there are differences in the average pronounced sentences among the various types of sex offences. At severity level 8 (first-degree offenses) the average sentence for the Force offenses are much longer than the sentences for the other types of offenses. However, at severity level 6 (second-degree offenses) the average sentence for Other Child offenses were longer than other offenses (see Figure 4).

Figure 4



For offenders who received conditional jail time, the average pronounced duration in days is presented. The average pronounced conditional jail time for sex offenders sentenced in 1999 was 173 days. This jail time was longer for offenders convicted of offenses involving a presumptive commitment to state imprisonment (see Figure 5 below).

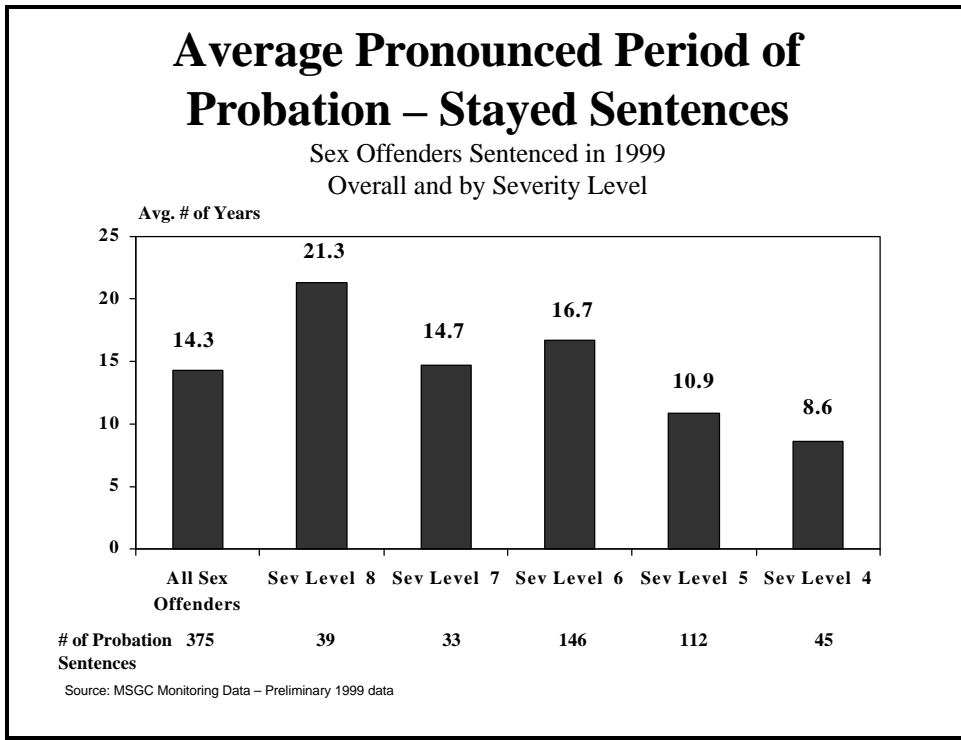
Figure 5



Length of Probation

The average length of pronounced probationary supervision is presented in years for those offenders who received probation. The average pronounced period of probation for sex offenders sentenced in 1999 was just under 15 years. The average probation sentence for offenders convicted of severity level 8 offenses was 21.3 years (see Figure 6 below).

Figure 6



Departures from the Guidelines: Information is presented on the number of departures by type of sex offense for dispositional departures and by severity level for durational departures. Departure reasons were available for 80 percent of the cases involving departures at the time of this report.

Dispositional Departures

These occur when the guidelines recommendation for imprisonment or a stayed sentence is not followed. Mitigated dispositions occur when the guidelines recommendation is for imprisonment, but the offender is given a probationary sentence. When the guidelines recommend a stayed sentence and the offender receives a prison sentence, it is an aggravated disposition.

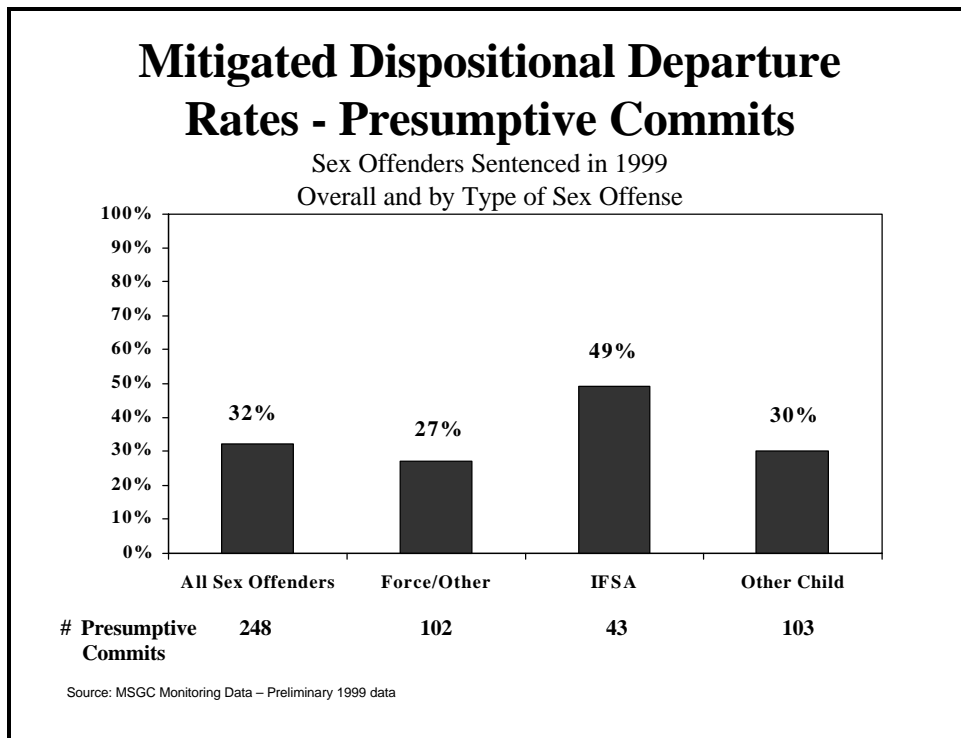
Mitigated Dispositions

The most common reasons cited for mitigated dispositional departures involve placing the offender in sex offender treatment programs, other types of treatment (e.g., chemical dependency), recommendations by court services and amenability to probation. In most years, in about 15 percent of these cases, the court indicated that the victim or victim's family agreed with the departure. Preliminary 1999 data indicate that in two-thirds of the mitigated dispositions (based on cases for which departure reasons were available), the court indicated either that there was a plea agreement for the departure or that the prosecutor did not object to the departure.

Mitigated dispositional departure rates are presented for presumptive commits (guidelines recommendation is imprisonment) by type of sex offense. The overall mitigated dispositional departure rate in 1999 was 32 percent. For most of the 1990s, this rate ranged from 35-40 percent. In 1998 the rate fell to 26 percent, the lowest this rate had been in the last decade. The decrease in 1998 was largely

because of a decline in the mitigated dispositional departure rate for the IFSA cases. While the dispositional departure right rate for these cases in 1998 (31%) was still higher than those for the other types of cases, this rate was lower than it had been in the past. In the 1990s the mitigated dispositional departure rate for IFSA cases was usually greater than 45 percent and in some years was above 50 percent. In 1999 the mitigated dispositional departure rate for IFSA cases returned to 49 percent (see Figure 7 below).

Figure 7



Aggravated Dispositions

In 1999, 23 offenders who were recommended probation under the guidelines received a prison sentence (a departure rate of 7% of the presumptive stays). Preliminary 1999 data indicate that in 19 of these cases the offender agreed to the departure. The other most frequently cited reasons included: the offender was not amenable to probation or treatment, multiple incidents, and injury or psychological harm.

Durational Departures

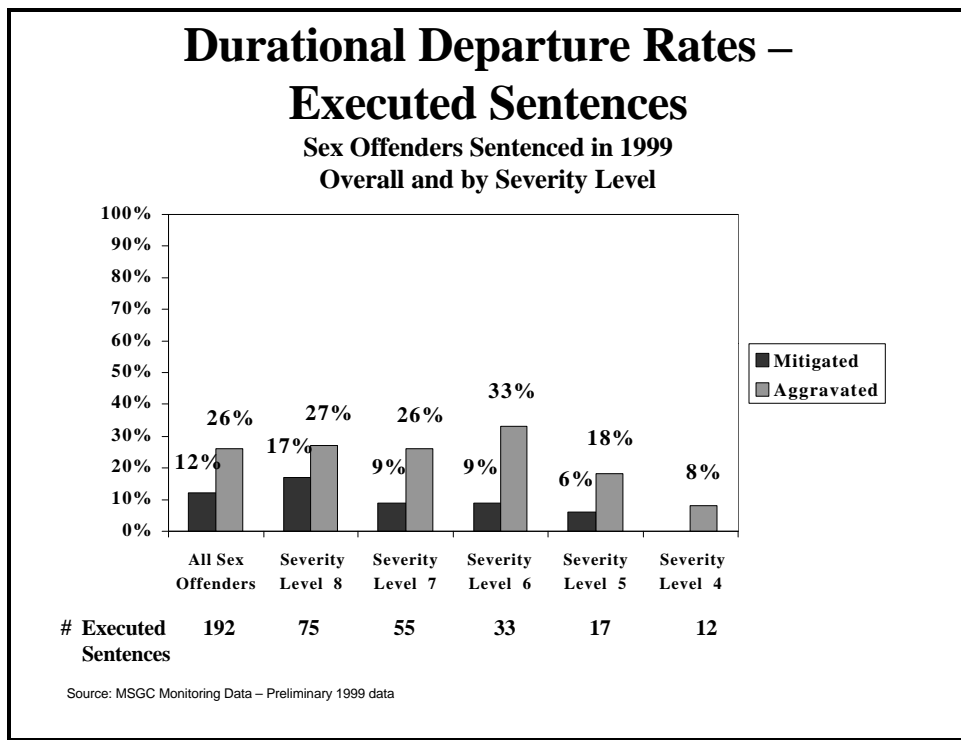
Durational departures occur when the pronounced sentence differs from the recommended guidelines duration. Durational departure rates are presented by severity level for executed sentences only.

In the 1990s, aggravated departures have occurred in 18 to 27 percent of executed prison sentences. The 1999 rate was 26 percent. In 1999, 49 sex offenders received prison sentences longer than the recommended guidelines sentence. The most common reasons cited for the upward durational departures involved particular cruelty, victim vulnerability, multiple victims or multiple incidents per victim, victim injury or psychological harm, position of trust or authority, and crime was committed in the victim's zone of privacy. Preliminary data indicate that seven of the upward durational departures involved offenders sentenced under the patterned sex offender provision. The court indicated that there was a plea agreement

for an aggravated duration in 65 percent of the upward durational departures (based on cases for which departure reasons were available).

In 1999, 22 sex offenders received prison sentences shorter than the recommended guidelines sentence. This represents 12 percent of the offenders who received executed sentences and is at the low end of the range seen for this type of departure in the 1990s (12 to 22%). The most frequently cited reason for the downward durational departures was to prevent trauma to the victim from testifying. In five of these cases, the court indicated that the victim or victim's family agreed with the departure. In 10 of these cases, the court indicated either that there was a plea agreement for a mitigated duration or that the prosecutor did not object to the departure (based on cases for which departure reasons were available). As can be seen in Figure 8 below, aggravated durational departures are more than twice as common as mitigated durational departures for almost all severity levels.

Figure 8



(For more detailed information on durational and dispositional departures over the past 12 years, see Table 2).

Mandatory Minimums and Special Sentencing Provisions: There are a number of mandatory minimum and special sentencing provisions spelled out in statute for sex offenders. Those provisions are described in the table below. In addition, the table displays information about cases sentenced in 1998 and 1999, which appear to qualify for some of these provisions. There is considerable overlap among these provisions, so offenders may be included in more than one category. The available data does not

allow for identification of cases which involve aggravating factors but which did not actually receive an aggravated departure sentence. Patterned sex offender cases were identified based on the departure reasons supplied by the courts. If the court doubled the sentence but did not specify in the departure information received by the MSGC that the patterned sex offender sentencing provision was being applied, the case would not be categorized as a Patterned Sex Offender case.

History of Use of Patterned Sex Offender Sentencing Provision

The patterned sex offender provision has been in existence since 1989 and is applicable to offenses committed on or after August 1, 1989. That statute calls for a sentence that is at least twice the length of the presumptive sentence. Table 1 below displays the number of offenders since 1990 that received durational departures that were at least twice the presumptive sentence for that case. Also displayed is the number of offenders for whom departure data indicate that they were sentenced as patterned sex offenders.

Table 1

Year	# Sex Offenses with Departures of Double or More	# Patterned Sex Offender Cited	# Other Reasons Cited
1990	13	5	8
1991	24	11	13
1992	29	19	10
1993	25	7	18
1994	29	10	19
1995	26	5	21
1996	24	4	20
1997	19	9	10
1998	30	12	18
1999	22	7	11

Aggravated durational departures 1990-1999 when the pronounced sentence is at least double the presumptive sentence: In addition to the seven offenders cited above as being sentenced as a patterned sex offender in 1999 and the 11 for whom other reasons were cited, four other offenders sentenced that year for whom departure reasons are not available at the time of this report received sentences that were at least double the presumptive sentence.

The average pronounced sentence for the seven offenders sentenced in 1999 who were designated as patterned sex offenders was 349 months. Four of these offenders received sentences of 30 years or more. The average pronounced sentence for the 15 sex offenders sentenced in 1999 who also received durational departures that were at least twice the presumptive sentence but were not designated as patterned sex offenders was 149 months. One of these offenders also received a sentence of 30 years or more.

Minnesota Sentencing Guidelines Commission
Sentencing Practices – Sex Offenders Sentenced 1988-1999

Table 2

Incarceration Rates and Average Pronounced Duration

Year	# Cases	Incarceration					
		Total Incarceration	Prison	Avg Duration	Jail	Avg Duration	
1988	677	609 90%	180 27%	54 months	429 63%	178 days	
1989	688	630 92%	217 32%	58 months	413 60%	186 days	
1990	771	712 92%	231 30%	78 months	481 62%	191 days	
1991	725	670 92%	227 31%	82 months	443 61%	200 days	
1992	798	749 94%	239 30%	89 months	510 64%	186 days	
1993	828	764 92%	244 30%	84 months	520 63%	183 days	
1994	880	827 94%	279 32%	83 months	548 62%	195 days	
1995	770	714 93%	249 32%	87 months	465 60%	183 days	
1996	632	599 94%	236 37%	84 months	354 56%	206 days	
1997	635	599 94%	201 32%	81 months	398 63%	196 days	
1998	670	636 95%	255 38%	88 months	381 57%	192 days	
1999	567	534 94%	192 34%	86 months	342 60%	173 days	

Table 3**Departure Rates**

Year	# Cases	Mitigated Dispositional Departures				Durational Departures Executed Sentences			
		# Presumptive Commits		# Receiving Probation		# Executed Sentences	Aggravated Duration		Mitigated Duration
1988	677	273	40%	101	37%	180	19 11%	19	11%
1989	688	319	46%	110	35%	217	29 13%	20	9%
1990	771	365	47%	144	40%	231	50 22%	39	17%
1991	725	334	46%	121	36%	227	44 19%	37	16%
1992	798	353	44%	129	37%	239	50 21%	30	13%
1993	828	360	44%	136	38%	244	45 18%	41	17%
1994	880	408	46%	148	36%	279	61 22%	38	14%
1995	770	346	45%	118	34%	249	59 24%	40	16%
1996	632	317	50%	97	31%	236	63 27%	28	12%
1997	635	288	45%	107	37%	201	41 20%	44	22%
1998	670	326	49%	86	26%	255	55 22%	32	13%
1999	567	248	44%	79	32%	192	49 26%	22	12%

Statutory Provision	Summary of Sentencing Practices for Offenders Sentenced in 1998 and 1999 (Preliminary)
<p>M.S. 609.109 subd. 5 - Minimum Double Departure</p> <p><i>At least double the sentence normally recommended under the guidelines.</i></p> <p><i>Applies if:</i> 1. <i>Aggravating factors exist and;</i> 2. <i>The conviction is for Criminal Sexual Conduct in the First, Second or Third degree under the provisions specifying force or violence.</i></p>	<p>Number Appearing to be Eligible: 1999 - 22 1998 - 19</p> <p><i>Offenders identified as eligible if convicted of one of the applicable statutes and received an aggravated duration.</i></p> <p>Average Pronounced Executed Prison Duration:</p> <p>1999: Mean: 150 months Median: 120 months</p> <ul style="list-style-type: none"> • <i>3 of these 22 received double their presumptive sentences</i> • <i>4 received more than double their presumptive sentences (one of these sentenced as patterned sex offender)</i> • <i>15 received departures that were less than double</i> <p>1998: Mean: 216 months Median: 168 months</p> <ul style="list-style-type: none"> • <i>3 of these 19 received double their presumptive sentences (one of these was sentenced as a patterned sex offender)</i> • <i>5 received more than double their presumptive sentences</i> • <i>11 received departures that were less than double</i>

Statutory Provision	Summary of Sentencing Practices for Offenders Sentenced in 1998 and 1999 (Preliminary)
<p>M.S. - 609.109 subd. 4 - Mandatory 30 year Departure</p> <p><i>A minimum of 30 years.</i></p> <p><i>Applies if:</i></p> <ol style="list-style-type: none"> <i>1. Aggravating factors exist and;</i> <i>2. The conviction is for Criminal Sexual Conduct in the First or Second Degree under the provisions specifying force or violence and;</i> <i>3. The offender has a prior First, Second or Third Degree Criminal Sexual Conduct conviction</i> 	<p>Number Appearing to be Eligible: 1999 – 2 1998 - 3</p> <p><i>Identified as eligible if convicted of one of the applicable statutes, had a prior First, Second or Third degree conviction, and received an aggravated duration.</i></p> <p>Pronounced Sentences:</p> <p>1999:</p> <ul style="list-style-type: none"> <i>• One got a sentence of 330 months – (more than double the presumptive sentence; sentenced as patterned sex offender)</i> <i>• One got a sentence of 300 months – (more than double the presumptive)</i> <p>1998:</p> <ul style="list-style-type: none"> <i>• One got two consecutive 30-year sentences - 720 months</i> <i>• One got a double departure -254 months</i> <i>• One got a departure that was less than double the presumptive sentence (this offense was an attempt) - 104 months</i>

Statutory Provision	Summary of Sentencing Practices for Offenders Sentenced in 1998 and 1999 (Preliminary)
<p>M.S. 609.109 subd. 3 - Mandatory Life in Prison</p> <p><i>Mandatory Life Sentence</i></p> <p><i>Applies if:</i> 1. Offender must be indicted for Criminal Sexual Conduct in the First Degree by a grand jury and: 2. Either previously been sentenced as a patterned sex offender or have two prior first, second, or third degree criminal sexual conduct offenses.</p>	<p>Number Receiving an Executed Life Sentence: 2</p> <p><i>Offenders given life sentences are not covered by the guidelines and therefore are not included in the MSGC data. According to data from the Department of Corrections, in both 1998 and 1999 one offender entered prison each year with a life sentence for a sex offense.</i></p> <p><i>MSGC data indicate that in 1999 two additional offenders were convicted of First Degree Criminal Sexual Conduct and had two or more prior first, second or third degree offenses and might have been eligible to be indicted by a grand jury and sentenced to life. One was sentenced as a patterned sex offender and received a 40-year sentence and a consecutive 42-month sentence. The other received consecutive sentences of 146 and 86 months for a total sentence of 232 months.</i></p> <p><i>In 1998, two additional offenders might have been eligible to be indicted by a grand jury and sentenced to life. One received two consecutive 30-year sentences for a total sentence of 720 months. The other received a departure that was less than double the presumptive sentence (this offense was an attempt) for a total sentence of 104 months.</i></p>