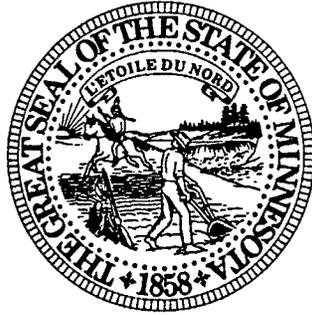


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**Short-term Offender/  
Fee-for-Service Group  
1994 Report to the Legislature**



**Short-term Offender/  
Fee-for-Service Group  
1994 Report to the Legislature**

**Minnesota Department of Corrections  
300 Bigelow Building  
450 North Syndicate Street  
St. Paul, Minnesota 55104  
612/642-0200**

**December 23, 1993**

**This information will be made available in  
alternative format upon request.**

# Executive Summary

## Minnesota Department of Corrections Short-term Offender/Fee-for-Service Group

Report to the 1994 Minnesota Legislature  
December 23, 1993

### Legislative directive

The 1993 Minnesota Legislature directed the commissioner of corrections to meet with the chairs of the house judiciary committee and judiciary finance division and the senate crime prevention committee and crime prevention finance division or their designees, and with representatives of community corrections agencies in order to:

- ✓ develop a long-range plan for adequately incarcerating convicted offenders who have failed to abide by their conditions of probation (short-term offenders); and
- ✓ consider whether per diem fees should be assessed to counties for the costs of confining juveniles at the Minnesota correctional facilities at Sauk Centre and Red Wing (Minnesota Laws 1993, Chapter 146, Article 2, Section 4).

### Group formed

The group, entitled the Short-term Offender/Fee-for-Service Group, was formed by Minnesota Commissioner of Corrections Frank Wood in accordance with legislative provisions.

Members included: *Senator Tracy Beckman*, Chair, Senate Crime Prevention Finance Division; *Representative Wesley Skoglund*, Chair, House Judiciary Committee; *Senator Randy Kelly*, Senate Crime Prevention Committee; *David Kelliher*, Legislative Assistant, Senate Crime Prevention Finance Division; *John Curry*, Committee Administrator, House Judiciary Finance Division; *Russell Reetz*, Director, Washington County Department of Court Services; *Mark Sizer*, Director, Todd/Wadena Community Corrections; *Therese McCoy*, Supervisor, Scott County Court Services; *Lynda Ross*, Director, Itasca County Court Services; and *Frank Wood*, Commissioner, Minnesota Department of Corrections.

*Joan Fabian*, Director, Ramsey County Community Corrections, and *Michael Cunniff*, Chief, Hennepin County Bureau of Community Corrections, or their designees, and *Debra Dailey*, Director, Minnesota Sentencing Guidelines Commission, also participated as nonvoting members. A separate subcommittee was also formed.

### Fee-for-service issue

As an initiative to reduce spending, the state proposed in the 1994-95 budget that the Sauk Centre facility be changed from state-funded to that of a fee-for-service, self-supporting facility in the second year of the biennium.

Substantial opposition to the concept was voiced by county officials, the judiciary, local court service personnel and professional organizations.

During the 1993 legislative session, lawmakers made their intent clear that the financial burden was not to shift to the counties and fully funded the Sauk Centre facility for the 1994-95 biennium in the Criminal Justice Appropriations Bill (1993 Minnesota Laws, Chapter 146, Article 2).

However, also in the appropriations bill, the legislature mandated that beginning July 1, 1994, the commissioner of corrections charge counties or other appropriate jurisdictions for the actual per diem cost at Sauk Centre. As a result of the legislature's full funding of the Sauk Centre facility, and the likely rejection of the fee-for-service proposal, a shortage in the general fund of approximately \$4.3 million will occur in FY95.

### Recommendations

- That the 1994 Legislature repeal the amendments made by 1993 Minnesota Laws, Chapter 146, Article 2, Section 15, which require collection of actual per diems from all counties using services at the Sauk Centre facility.
- That the 1994 Legislature repeal the amendments made by 1993 Minnesota Laws, Chapter 146, Article 2, Section 18, which require collection of actual per diems from Community Corrections Act counties.
- That the 1994 Legislature address the general fund issue as it relates to the 1993 Legislature's intended rejection of the Sauk Centre fee-for-service proposal.
- That a long-term recommendation be developed for meeting the infrastructure needs of the state, possi-

bly on a regional basis, for pre and post adjudicated juvenile offenders. It is also recommended that the legislature appropriate funds to study the feasibility and viability of the use of interactive television systems for adult and juvenile non-court hearings throughout the state. If this study indicates interactive television is a feasible and viable option for adult and juvenile hearings, it is recommended that the legislature appropriate funds to establish a pilot interactive television project for this purpose.

### Short-term offender issue

The short-term offender issue is a difficult problem that has been deliberated for several years in the legislature. Most recently, the state proposed in the 1994-95 biennial budget that short-term probation violators, now spending less than one year in state correctional facilities, no longer be committed to the state.

From the state's viewpoint these offenders should not be using expensive state prison beds that are designed for dangerous long-term inmates. From the counties' viewpoint, local facilities, particularly in metropolitan areas, are already pushed beyond their capacities and there are no fiscal resources available to expand housing for these short-term offenders at the county level.

Rather than limit commitments of short-term probation violators, the 1993 Legislature provided funds to the state corrections department to help manage prison crowding, including the housing of these offenders in local facilities on a contract basis for FY94 only.

A number and variety of options to address the short-term offender issue were carefully reviewed by the group. There was strong sentiment among some members that the appropriate solutions involve modifying the sentencing guidelines to lessen prison crowding, or developing a program that allows placement of offenders in community custody prior to supervised release dates. There was also strong sentiment that such options will not be well received in the legislature at a time when more and longer sentences are being sought.

However, it was agreed that study of the guidelines system for possible future modifications would be recommended.

Other options reviewed included proposals such as constructing/converting minimum-security facilities for short-term offenders and DWI offenders; modifying criteria for admission to the Challenge Program; increasing funding for intensive supervision programs; and construction of a new prison.

### Recommendations

- That the legislature appropriate additional funds to the Minnesota Department of Corrections to support new initiatives to enhance the supervision and transitional programming of offenders into the community. The initiative is designed to improve offender supervision and accountability, and reduce recidivism and risk to public safety by placing selected offenders who have reached their supervised release date on 90-day or 120-day transitional caseloads not to exceed 15-20 offenders. It is recommended that the department award these funds to counties for establishment of several pilot programs in metro and rural areas based on the intensive community supervision-type program model. Counties would apply for funds and administer the programs in the manner they deem most appropriate, including county contracts with private entities. (It is essential that funds be appropriated to fund a rigorous research component to measure the impact on recidivism, prison space and public safety.)
- That the legislature expand the pool of offenders eligible for the Challenge Incarceration Program to include selected nonviolent drug and property offenders who are in their last 36 months of confinement.
- That the legislature appropriate funds to construct/convert and operate facilities at appropriate locations around the state for the confinement and programming of short-term offenders. Whenever feasible, these facilities should be located so that incarcerated offenders are in or near the county of commitment. In addition, it is recommended that funds be appropriated to the Minnesota Department of Corrections for a pilot grant program under which counties would be eligible to apply for funds to construct/convert and operate facilities for the short-term offender.
- That the legislature direct the Sentencing Guidelines Commission to meet with chairs of the House Judiciary Committee, Judiciary Finance Division, Senate Crime Prevention Committee and Crime Prevention Finance Division to study and develop sentencing guidelines initiatives which would better utilize the state's most expensive sanction—prisons—without creating public risk. It is also recommended that the legislature address additional costs incurred by the counties as a result of any guidelines initiatives which have the effect of increasing the number of offenders sanctioned at the local level.

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# Introduction

## Legislative directive

The 1993 Minnesota Legislature directed the commissioner of corrections to meet with the chairs of the house judiciary committee and judiciary finance division and the senate crime prevention committee and crime prevention finance division or their designees, and with representatives of community corrections agencies in order to:

- ✓ develop a long-range plan for adequately incarcerating convicted offenders who have failed to abide by their conditions of probation (short-term offenders); and
- ✓ consider whether per diem fees should be assessed to counties for the costs of confining juveniles at the Minnesota correctional facilities at Sauk Centre and Red Wing (Minnesota Laws 1993, Chapter 146, Article 2, Section 4).

The legislation also directed that the community corrections representatives be two persons selected by the Minnesota Association of Community Corrections Act Counties (MACCAC), one from a metropolitan county and one from a nonmetropolitan county; and two persons selected by the Minnesota Association of County Probation Officers (MACPO), one from a metropolitan county and one from a nonmetropolitan county.

This document is pursuant to the legislative mandate that the commissioner of corrections report the findings and recommendations of this group to the legislature by February 1, 1994.

## Group formed

The group, entitled the Short-term Offender/Fee-for-Service Group, was formed by Minnesota Commissioner of Corrections Frank Wood in accordance with legislative provisions.

## Members included:

Senator Tracy Beckman, Chair  
Senate Crime Prevention Finance Division

Representative Wesley Skoglund, Chair  
House Judiciary Committee

Senator Randy Kelly  
Senate Crime Prevention Committee

David Kelliher, Legislative Assistant  
Senate Crime Prevention Finance Division

John Curry, Committee Administrator  
House Judiciary Finance Division

Russell Reetz, Director  
Washington County Department of Court Services (MACCAC representative)

Mark Sizer, Director  
Todd/Wadena Community Corrections (MACCAC representative)

Therese McCoy, Supervisor  
Scott County Court Services (MACPO representative)

Lynda Ross, Director  
Itasca County Court Services (MACPO representative)

Frank Wood, Commissioner  
Minnesota Department of Corrections

## Participating, nonvoting members (or their designees) included:

Joan Fabian, Director  
Ramsey County Community Corrections

Michael Cunniff, Chief  
Hennepin County Bureau of Community Corrections

Debra Dailey, Director  
Minnesota Sentencing Guidelines Commission

A subcommittee was also formed to develop and refine options regarding the short-term offender issue. This subcommittee included:

**Kevin Burke**  
Judge of the District Court

**Kathleen Gearin**  
Judge of the District Court

**Joan Fabian, Director**  
Ramsey County Community Corrections

**Michael Cunniff, Chief**  
Hennepin County Bureau of  
Community Corrections

**Russell Reetz, Director**  
Washington County Department  
of Court Services

**Mark Sizer, Director**  
Todd/Wadena Community Corrections

**Lynda Ross, Director**  
Itasca County Court Services

**Therese McCoy, Supervisor**  
Scott County Court Services

**Sig Fine, Assistant Director**  
Hennepin County Bureau of  
Community Corrections

**Harley Nelson, Assistant Director**  
Ramsey County Community Corrections

**James Bruton, Minnesota Department  
of Corrections Deputy Commissioner  
of Institutions**

**Richard Mulcrone, Minnesota  
Department of Corrections Deputy  
Commissioner of Community Services**

Five meetings of the group were held and were supplemented by meetings of the work group (see Appendix B for group meeting minutes).

The diligent, hard work done by the group and the cooperative spirit in which their charge was carried out were invaluable.

# Fee-for-Service Issue

## Background

As an initiative to reduce spending, the state proposed in the 1994-95 budget that the Sauk Centre facility be changed from state-funded to that of a fee-for-service, self-supporting facility in the second year of the biennium. The facility would have operated similarly to the corrections department's Thistledeew Camp. If successful, a comparable change for the Red Wing facility would have been proposed in the following biennium.

The proposal would have had the following impact:

- ✓ Services were to be purchased directly by the counties. The local community would make the decision to purchase services based on the marketplace.
- ✓ Community Corrections Act (CCA) counties were to be charged the full per diem for using the facility, rather than the partial fee they are now charged. The partial fee is based on a historic per diem charge that has increased proportionally to increases in the CCA appropriation.
- ✓ Non-CCA counties, which currently are not charged for juvenile commitments, were to be charged the full per diem for all commitments to Sauk Centre.

## Local reaction

Substantial opposition to the concept was voiced by county officials, the judiciary, local court service personnel and professional organizations.

Opposition from non-CCA counties focused on the position that they do not have resources to pay the per diem costs and they would have to begin paying for services now available to them without charge. It was described as a tax shift from the state to local jurisdictions, and as a shift in responsi-

bility for services they believe should be provided by the state.

Non-CCA counties argued that the proposal is inequitable because CCA counties are provided resources by the state to subsidize chargebacks.

Non-CCA counties also argued that there was a gross inequity between non-CCA counties that would be charged for utilizing Sauk Centre, while non-CCA counties utilizing Red Wing would not be charged.

CCA counties objected to the increase in per diem fees at a time when they report offender populations and service demands increasing dramatically while resources are pressed beyond their limits. They also cited the proposal as a continuing shift to the counties of a responsibility that historically has been that of the state.

CCA counties also made the case that the per diem fee is already subject to formula-driven increases based on changes in CCA appropriations.

## Legislative action

During the 1993 legislative session, lawmakers made their intent clear that the financial burden was not to shift to the counties, and fully funded the Sauk Centre facility for the 1994-95 biennium in the Criminal Justice Appropriations Bill (1993 Minnesota Laws, Chapter 146, Article 2).

However, also in the appropriations bill, the legislature mandated that beginning July 1, 1994, the commissioner of corrections charge counties or other appropriate jurisdictions for the actual per diem cost at Sauk Centre. This applies to both CCA and non-CCA counties. Another section amends the Community Corrections Act to reflect charging the actual per diem for all juveniles committed to the commissioner from CCA counties.

As a result of the legislature's rejection of the fee-for-service proposal and the full funding of the Sauk Centre facility, a shortage in the general fund of approximately \$4.3 million will occur in FY95.

## Discussion

Early in the group's deliberations it was clearly agreed that legislative intent was to reject the fee-for-service proposal, even though there appears to be contradictory statutory language on the issue. It was the group's understanding that the legislature postponed the collection of per diems until 1994 so that the fee-for-service study group could make recommendations to the 1994 legislative session to resolve the issue.

The discussion of the specific fee-for-service issue evolved into a broader review of gaps in the continuity and continuum of juvenile pre and post adjudication services in Minnesota. It was suggested that the existing system be given a fresh look.

The concept of a regional delivery system, with the state as a significant partner, was discussed and generally supported.

A broadly based juvenile programming committee, representative of state and county stakeholders in the juvenile justice system, has been formed by the department to make recommendations to address needs in the service delivery system. Recommendations could be made to retain the current system, to develop regional facilities, or to develop a shared combined effort.

Also, it is anticipated that the Supreme Court Advisory Task Force on the Juvenile Justice System will make recommendations to the 1994 legislative session regarding pre and post adjudication facilities for juvenile offenders.

It was suggested that the legislature consider making funds available for planning a regional delivery system to address current and projected needs.

The potential benefits of the use of interactive television systems for adult and juvenile hearings was also discussed. It was pointed out that such systems could save costly expenditures in a number of areas, including transportation.

## Recommendations

The group recommends:

- That the 1994 Legislature repeal the amendments made by 1993 Minnesota Laws, Chapter 146, Article 2, Section 15, which require collection of actual per diems from all counties using services at the Sauk Centre facility.
- That the 1994 Legislature repeal the amendments made by 1993 Minnesota Laws, Chapter 146, Article 2, Section 18, which require collection of actual per diems from CCA counties.
- That the 1994 Legislature address the general fund issue as it relates to the 1993 Legislature's intended rejection of the Sauk Centre fee-for-service proposal.
- That a long-term recommendation be developed for meeting the infrastructure needs of the state, possibly on a regional basis, for pre and post adjudicated juvenile offenders. It is also recommended that the legislature appropriate funds to study the feasibility and viability of the use of interactive television systems for adult and juvenile non-court hearings throughout the state. If this study indicates interactive television is a feasible and viable option for adult and juvenile hearings, it is recommended that the legislature appropriate funds to establish a pilot interactive television project for this purpose.

# Short-term Offender Issue

## Background

The short-term offender issue is a difficult problem that has been deliberated for several years in the legislature.

Most recently, the state proposed in the 1994-95 biennial budget that short-term offenders, now spending less than one year and in some cases several months or days in state correctional facilities, no longer be committed to the state.

The proposal related to offenders who failed to follow conditions of probation and consequently were committed to the commissioner of corrections.

## The state's viewpoint

Offenders who fail to abide by their conditions of probation and are committed to the commissioner of corrections for less than one year should not be using expensive state prison beds designed for dangerous long-term inmates.

This is true particularly at a time when state institutions are far beyond their design capacities and projections indicate continuing increases in inmate populations. The state does not have adequate resources to house these offenders.

Historically, in accordance with the intent of state law, offenders with less than a year and a day were the responsibility of the counties. The law states that "A sentence to more than one year shall commit the defendant to the custody of the commissioner of corrections...A sentence to imprisonment for a period of one year or any lesser period shall be to a workhouse, work farm, county jail, or other place authorized by law" (M.S. Sec. 609.105).

Adequate programming for short-term offenders is extremely difficult in state facilities where programs are designed for long-term inmates. State facilities are currently crowded beyond their design/program capacities. The shortage of program slots forces institutions to place some inmates on unassigned status and they are usually short-term offenders.

The state's short-term offender proposal did not affect offenders who are sentenced to prison in accordance with the state sentencing guidelines regardless of the actual term of imprisonment. Neither did the proposal relate to cases in which the court departed from the guidelines and sent the offender to prison, even though the prison stay was less than one year.

There were 999 short-term commitments of less than 12 months to the commissioner of corrections in 1992. Approximately 39 percent of these short-term commitments are offenders who violated conditions of their probation. It is estimated that when length of stay is factored in, the actual number of state prison beds occupied by short-term offenders who are probation violators is approximately 350.

## The counties' viewpoint

Local facilities, particularly in metropolitan areas, are already pushed beyond their capacities and there are no fiscal resources available to expand housing for short-term offenders at the county level.

Short-term offenders are the responsibility of the state. Offenders who violate conditions of probation and are committed to the commissioner are repeat failures who are sent to the state as the last resort after local resources are exhausted or fail to be effective. They are difficult offenders who are not necessarily non-violent.

Because of their persistent non-conforming behavior, these offenders are frustrating to probation officers. Prison offers a realistic option and serious consequence for this category of offender.

Short-term offenders are sentenced by the court. Whether they are committed to the commissioner is not determined by the corrections system.

Larger counties are already programming for a significant number of offenders who were sentenced by the court as downward departures who would have otherwise been committed to the state.

Probation violators who are short-term offenders by the state's standards are long-term offenders by county standards. Their programming needs are difficult to meet at local facilities.

From the counties' viewpoint, an artificially large short-term offender population is created by multiple crediting for time served in pre-trial confinement and for other crimes.

### **Legislative action**

Rather than limit commitments of short-term probation violators, the 1993 Legislature provided funds to the state corrections department to help manage prison crowding, including the housing of these offenders in local facilities on a contract basis.

However, funds were provided to purchase jail space for a limited number of inmates only for fiscal year 1994, leaving the second year of the biennium beginning July 1, 1994, unfunded.

In addition, the department has reached a plateau of available local beds in the 100 to 110 bed range. Thus an adequate number of local county beds are not available to address the approximate 350 bed need.

In the interim, to address the need in fiscal year 1995 the legislature formed the short-term offender/fee-for-service group to formulate this report and make recommendations to the 1994 session.

### **Discussion**

Early in its deliberations the group requested and heard a summary of the state and county perspectives on the short-term offender issue.

### **Initial Options**

A subcommittee composed of state and local representation developed and presented options to the full group:

- ✓ Development of a short-term offender program — Convert the Lino Lakes facility to a reception center to which all short-term offenders would be sent. After a 60-day accountability/classification period: 1) intransigent offenders would be programmed until their statutory release date, and 2) carefully selected offenders meeting specific criteria and amenable to community placement would be returned to the community.

Offenders placed in the community would be required to participate in extremely closely monitored and accountability-driven programs. Programs would be operated by the counties and would require state subsidization. They could include special intensive community supervision, electronic monitoring, jail, Sentencing to Service, etc.

- ✓ Development of a state subsidized, county-operated minimum-security facility in the Minneapolis-St. Paul metropolitan area for metropolitan and surrounding counties for all DWI offenders. By providing such a facility, beds could become available in county facilities for short-term offenders.

- ✓ Development of a state-operated, minimum-security facility in the Minneapolis-St. Paul area for metropolitan and surrounding counties for housing the short-term offender.
- ✓ Adjust the sentencing guidelines by moderating all sentences or some sentences by a number of days to bring commitments into sync with state prison bed capacity. The legislature could create a special sentence adjustment incentive to be administered by the state corrections department. A combination of these two options could be developed.
- ✓ The legislature could continue to appropriate funds and authorize the state corrections department to contract for beds from local jurisdictions to house the short-term offender.
- ✓ The state could construct a new 300-500 bed prison for the short-term offender.

The subcommittee agreed that these options were starting points for discussion and that, although they had potential, they each presented serious problems.

### ***Options refined***

After a discussion of each option it was determined that the subcommittee be reconvened and expanded to include the judiciary and additional county representation.

It was suggested that a combination of two options—a minimum security facility for DWI offenders and a minimum security facility for short-term offenders—be further studied by the subcommittee.

In its review of the various options, the subcommittee agreed that an honest message must be presented to the legislature, even if it is not a popular position. They concluded that:

- ✓ Minnesota cannot build its way out of the crime problem.

- ✓ Minnesota must spend additional dollars to address the current institution crowding problem.
- ✓ Some less popular and politic recommendations should be considered, such as modifying the sentencing guidelines so that either fewer offenders go to prison or those who do go to prison stay for shorter periods.
- ✓ There are three basic solutions to the problem of reducing inmate populations: 1) reduce the number committed to prison; 2) shorten the terms of imprisonment, or 3) build additional prisons.

### ***Community custody option***

The subcommittee rejected the option which proposed the development of a state subsidized DWI facility, indicating that the counties currently manage this type of offender appropriately. Also, Hennepin and Ramsey Counties are looking at joint development of a DWI facility to deal with anticipated population increases.

As the preferred option, the subcommittee focused on development of a program for transitional transfer to community custody.

This program would permit offenders to be transferred up to 90 days prior to their supervised release date to a community-based custody program. Low caseloads, high surveillance, intensive programming, and a high degree of accountability would be primary components. It was a consensus by the subcommittee that this program was a proposal all participants could embrace, and that it would make good public policy.

The program's purpose would be to provide a transition to the community for offenders who are about to be mandatorily released through a highly structured, supervised, surveillance-type model. The intent also would be to help bridge the gap between direct release to the streets by going into a transitional transfer model of community-

based programming. It would emphasize work, education and special programming linkages. The program could be piloted in one area and include a comprehensive research component.

In discussing the subcommittee's recommendation, some members of the group questioned the transitional program option as an early release mechanism. It was pointed out that this option is a break from the truth in sentencing legislation approved two years ago. Some members indicated that the proposed program attacks the integrity of the sentencing guidelines system and would possibly inflate all pronounced sentences. It could place Minnesota on a path similar to other states. There was no support for this proposal from the legislative members of the group.

This recommendation was ultimately rejected. However, a recommended increase in resources to provide additional county-administered intensive supervision programs for offenders on supervised release was strongly supported. There are insufficient resources to manage people coming out of prison at the very time when they are most likely to recidivate.

It was decided that any expansion of intensive supervision programs must include a comprehensive research component.

New state-funded initiatives to enhance the supervision and transitional programming of offenders into the community on supervised release should be administered by the counties; however, the counties would have the option to contract with a private vendor to deliver these services.

### **Other discussion**

In discussing the option of modifying the sentencing guidelines system, it was suggested that it may be appropriate for the commission to revisit the philosophical question of coordinating sentencing practices with existing correctional resources.

Commission members are currently developing principles for ranking crimes as a mechanism for how offenses should be treated within the guidelines system.

Some group members indicated that adjusting the sentencing guidelines is the real solution to the prison crowding problem and the short-term offender issue. Building new institutions that are needed every year or two will not reduce crime.

Legislative members indicated that reducing the guidelines now is not a viable option and legislative sentiment is actually in the opposite direction.

In discussing the option to construct or convert and operate facilities for the short-term offender, it was agreed that in addition to developing these facilities a pilot program should be recommended under which counties would be eligible to apply for funds to construct/convert and operate facilities for the short-term offender. It was also agreed that these facilities should be located in or near the county of commitment.

The group also strongly supported expansion of the pool of offenders eligible for the Challenge Incarceration Program to include nonviolent drug and property offenders who are in the last 36 months of confinement.

Consideration was given to allowing offenders to go to the program without a court departure if the judge ordered. However, this was rejected after the potential of expanding the net to include offenders not now going to prison was discussed.

## Recommendations

At its final meeting, the short-term offender/fee-for-service group approved the following recommendations regarding the short-term offender issue:

- That the legislature appropriate additional funds to the Minnesota Department of Corrections to support new initiatives to enhance the supervision and transitional programming of offenders into the community. The initiative is designed to improve offender supervision and accountability, and reduce recidivism and risk to public safety by placing selected offenders who have reached their supervised release date on 90-day or 120-day transitional caseloads not to exceed 15-20 offenders. It is recommended that the department award these funds to counties for establishment of several pilot programs in metro and rural areas based on the intensive community supervision-type program model.

Counties would apply for funds and administer the programs in the manner they deem most appropriate, including county contracts with private entities. (It is essential that funds be appropriated to fund a rigorous research component to measure the impact on recidivism, prison space and public safety.)

- That the legislature expand the pool of offenders eligible for the Challenge Incarceration Program to include selected nonviolent drug and property offenders who are in their last 36 months of confinement.
- That the legislature appropriate funds to construct/convert and operate facilities at appropriate locations around the state for the confinement and programming of short-term offenders. Whenever feasible, these facilities should be located so that incarcerated offenders are in or near the county of commitment.

In addition, it is recommended that funds be appropriated to the Minnesota Department of Corrections for a pilot grant program under which counties would be eligible to apply for funds to construct/convert and operate facilities for the short-term offender.

- That the legislature direct the Sentencing Guidelines Commission to meet with chairs of the House Judiciary Committee, Judiciary Finance Division, Senate Crime Prevention Committee and Crime Prevention Finance Division to study and develop sentencing guidelines initiatives which would better utilize the state's most expensive sanction—prisons—without creating public risk.

It is also recommended that the legislature address additional costs incurred by the counties as a result of any guidelines initiatives which have the effect of increasing the number of offenders sanctioned at the local level.



## Appendix A — Legislation

The commissioner of corrections shall meet with the chairs of the house judiciary committee and judiciary finance division and the senate crime prevention committee and crime prevention finance division or their designees, and with representatives of community corrections agencies in order to:

- (1) develop a long-range plan for adequately incarcerating convicted offenders who have failed to abide by their conditions of probation; and
- (2) consider whether per diem fees should be assessed to counties for the costs of confining juveniles at the Minnesota correctional facilities at Sauk Centre and Red Wing.

The representatives of community corrections agencies shall be selected as follows: two persons selected by the Minnesota association of community corrections act counties, one from a metropolitan county and one from a nonmetropolitan county; and two persons selected by the Minnesota association of county probation officers, one from a metropolitan county and one from a nonmetropolitan county.

The commissioner shall report the findings and recommendations of this group to the legislature by February 1, 1994.

(Minnesota Laws 1993, Chapter 146, Article 2, Section 4).



## Appendix B — Meeting Minutes

### Short-term Offender/Fee-for-Service Group Meeting Minutes - September 27, 1993

The legislatively created Short-term Offender/Fee-for-Service Group met at the Minnesota Department of Corrections on Monday, September 27, 1993, at 10 a.m. The meeting was called to order by Commissioner Frank Wood and participants and staff introduced themselves and their area of representation:

Senator Tracy Beckman	Crime Prevention Finance Division chair
Senator Randy Kelly	Crime Prevention Committee
Rep. Phil Carruthers	Judiciary Finance Division vice chair
Rep. Wes Skoglund	Judiciary Committee chair
Frank Wood	Corrections commissioner
David Kelliher	Crime Prevention Finance Division legislative assistant
John Curry	Judiciary Finance Division committee administrator
Lynda Ross	Minnesota Association of County Probation Officers (MACPO) non-metro county (Itasca) representative
Therese McCoy	MACPO metro county (Scott) representative
Mark Sizer	Minnesota Association of Community Corrections Act Counties (MACCAC) non-metro (Todd/Wadena) county representative
Russ Reetz	MACCAC metro county (Washington) representative
Peggy Willens	Finance Committee fiscal analyst
Dan O'Brien	Assistant to the corrections commissioner
Shari Burt	Secretary to corrections commissioner

A letter in support of the addition of Hennepin and Ramsey County representatives to the group was distributed to members by Commissioner Wood. Representative Carruthers and Senator Kelly supported addition of these participants from the largest metropolitan counties in the state. It was agreed that Commissioner Wood would invite county corrections directors Fabian and Cunniff or their designees to participate as nonvoting members. However, it was specified that Russ Reetz and Mark Sizer are voting members as the official MACCAC representatives.

Commissioner Wood requested that a representative of the Sentencing Guidelines Commission also participate as a nonvoting member; the group concurred.

#### Short-Term Offender

Commissioner Wood explained that the bed shortage problem faced by the state corrections department is more acute than it was during the legislative session, noting that the August population projection was exceeded by 56. It is estimated that there will be a continuing need for 250-300 new beds each year. Projections will be revised when 1992 data is available from the Sentencing Guidelines Commission and could possibly increase. Measures taken to deal with population pressures include 74 temporary dormitory beds at Stillwater, contracts with local jails including 97 beds in Washington County at a per diem of \$58.43, and an additional 30 beds at the Scott County Jail Annex which should be available sometime in December or January.

Background materials on statutes and proposed legislative changes were distributed to members for their review and discussion.

Existing statutory language (609.105) states that a sentence to imprisonment for more than one year shall commit the defendant to the custody of the commissioner of corrections who shall determine the place of confinement in a department facility. A sentence of imprisonment for a period of one year or any lesser period shall be to a workhouse, work farm, county jail or other place authorized by law.

Section 609.135 stipulates that an offender may not demand execution of sentence in lieu of a stay of imposition or execution of sentence if the offender will serve less than nine months at the state institution. However, the state continues to receive offenders in violation of this statute at a rate of approximately 50 per year.

During the last legislative session the department proposed to amend statutes so that no offender could be sentenced to the custody of the commissioner of corrections with less than 12 months remaining to be served on the sentence. That proposal did not pass which resulted in the legislative charge to this group.

The 1992 bed impact estimate of offenders received at state institutions with less than 12 months to serve was 356. This figure does not include presumptive commitments or upward departures.

Senator Kelly asked what rationale, other than the crowding problem, should be used to justify short-term offenders not coming into the state prison system. Commissioner Wood responded that short-term offenders committed to the state are placed in a minimum-security setting or a county jail almost immediately. The question from his perspective is who is going to pay for additional beds/operation of those beds if the state retains responsibility. The state will have to build and operate the beds. If the counties cannot free up jail space by developing alternatives for housing of, for instance, DWI offenders, some additional jail beds would have to be built and operated in the counties to house those short-term offenders who require confinement. No simplistic solution exists nor a solution that would not cost dollars, with the exception of a change in the sentencing guidelines.

Therese McCoy indicated that it would be helpful to receive data on the number of offenders in local beds at this time and how many are in pretrial, serving a sentence, sentence duration, number of probation violators, offenses, etc. Commissioner Wood will try to forward the data to the group before the next meeting.

Senator Beckman commented on the "club" of being sent to prison. Commissioner Wood questioned its validity because an increasing number of offenders are demanding execution of sentence. Russ Reetz said that the club is effective only when it is certain and immediate. This backup allows a variety of community programs to work because of the threat of imprisonment. The reason many offenders come to prison with so little time is because the local authority has exhausted all community programming and there is no space to incarcerate locally.

Representative Skoglund asked if judges are aware that offenders they are sending to prison are in many cases actually serving their time in local jails. Commissioner Wood indicated that judges probably are not aware in many cases. Russ Reetz commented that time served in local facilities is usually harder than in a state facility because of less programming. Commissioner Wood added that a number of local facilities have no-contact visiting and are smoke-free. State facilities have greatly restricted smoking but inmates can still smoke in their cells and in the yard.

Mark Sizer indicated that we are working on the premise that prison is a deterrent and he questions if it is. He stated that county jails should be for offenders we are mad at and prisons should be for those of whom we are afraid.

Senator Kelly commented that for many years now the legislature has been making efforts to try to get the system to better manage its resources and indications are that improvements have been made.

Russ Reetz indicated that every program could be expanded to take more offenders if there was money to do so. Probation is a far less expensive alternative than prison. As an example, the Sentencing to Service (STS) program in Washington County was just expanded because of additional dollars acquired through the state with a county match. However, there is still a waiting list to be placed on STS.

Representative Carruthers pointed out that a critical issue is property tax. Any burden placed on the counties will be reflected in increased taxes.

There was some discussion on use of local beds for DWI and domestic abusers. Senator Kelly pointed out that use of jail time for these offenders is in response to constituents. Russ Reetz indicated that incarcerating these offenders immediately after the offense has the most effect, rather than just increasing the length of sentences.

Representative Carruthers commented that funding was expanded for intensive supervision. Russ Reetz stated that intensive supervision was an excellent area to expand and concentrate on offenders entering the system rather than at the end of their sentence.

Senator Beckman questioned when alcoholism will be looked at as the disease we are told it is and expressed concern about developing new facilities for DWI offenders when existing treatment facilities are going out of business in Minnesota. Therese McCoy commented that treatment alone does not work and there needs to be a tie-in to accountability.

Representative Skoglund recently visited the federal facility at Duluth which has about 200 beds available. Commissioner Wood indicated that the majority of federal prisons are operating over capacity and federal per diems have historically been too high for the state but that he will contact Duluth officials on this issue.

#### Fee-for-Services at Juvenile Facilities

Corrections financial services director Shirley Flekke joined the meeting for this part of the discussion.

The corrections department asked the legislature in the last session to allow the Sauk Centre facility to operate on a per diem basis similar to Thistledeew Camp. In the budget plan submitted by the department, the Sauk Centre appropriation was reduced in the second year of the biennium to reflect a fee-for-service operation. However, this was not approved and the decision was made to fully fund Sauk Centre. Because the appropriation was made to the department, this creates a hole in the general fund of approximately \$4.3 million in the second year of the biennium.

Commissioner Wood indicated that it is his perception that the legislature, by virtue of fully funding Sauk Centre in the second year of the biennium, does not want the state to move in the fee-for-service direction and charged this group to discuss the funding issue and forward its recommendations.

There was discussion at this point on cost to counties for utilizing state juvenile facilities. Representative Skoglund asked what the average age was for juveniles certified to the adult system and whether counties would certify juveniles because of the high per diems at state juvenile facilities. Lynda Ross indicated that the certification process begins for some juveniles at age 16 or 17. However, it was pointed out that certification usually occurs when all other options have been exhausted and economics should not play a role in the certification process.

John Curry suggested looking at whether counties are choosing to use private programs in other states because Sauk Centre is too expensive.

Russ Reetz asked the group to study whether two state juvenile facilities are necessary.

#### Future Meetings

Senator Kelly asked that the next meeting include a discussion forum during which Ramsey and Hennepin County representatives present each county's position on the short-term offender. Commissioner Wood suggested that the presentation also include proposals for resolution of this difficult issue. Senator Kelly also suggested that representatives of the state corrections department take part in the discussion forum and present the department's perspective.

The group agreed that this would be helpful. Commissioner Wood will contact Ramsey and Hennepin County corrections directors in this regard and will also arrange for corrections deputy commissioners Jim Bruton and Dick Mulcrone to participate in the forum.

Representative Skoglund suggested that at some point a judge, possibly Kevin Burke, be invited to address the group.

It was agreed to meet on Tuesday, October 12, at 10 a.m. and then meet every other Monday from 10 a.m. until noon. Senator Kelly suggested, since scheduling is difficult during the holidays, that the group try to complete its work by Thanksgiving. Commissioner Wood agreed and noted a consensus of the group to work toward completion of the report before the end of the year. The commissioner is required to report the findings and recommendations of the group to the legislature by February 1, 1994.

END OF MINUTES

Short-term Offender/Fee-for-Service Group  
Meeting Minutes - October 18, 1993

Members present:

Mike Cunniff	Therese McCoy
John Curry	Russ Reetz
Debra Dailey	Mark Sizer
Joan Fabian	Representative Wes Skoglund
David Kelliher	Commissioner Frank Wood
Senator Randy Kelly	

Guests:

Sig Fine, Hennepin County Community Corrections  
Jim Bruton, Deputy Commissioner - Institutions  
Richard Mulcrone, Deputy Commissioner - Community Services

Group staff:

Dan O'Brien, Assistant to the Commissioner  
Shari Burt (recorder)

Commissioner Wood opened the meeting by thanking everyone for their efforts thus far. Group members are working together in an honest search for compromise which will make completion of the group's tasks much easier and the meetings more productive.

State Perspective

Minnesota Department of Corrections Deputy Commissioner Jim Bruton, who was until very recently superintendent of the Ramsey County Adult Correctional Facility, explained that because of his experience he can see the issue of the short-term offender from both a county and state perspective and that both sides have very significant concerns.

The state is facing massive population problems. There has been an increase of 1,300 adult inmates since 1985 to the current population of approximately 4,000. Projections estimate 4,500 by 1995 and are less reliable beyond that time. The bed shortage is anticipated to grow by about 300 beds a year.

Efforts to address bed shortages include contracts with county jail facilities and expansion at Moose Lake to 620 beds by February, 1996. Other possible conversion sites in the metro area are also being reviewed, such as the regional treatment centers at Cambridge and Anoka. A decision also needs to be made about possible expansion at Faribault.

Mr. Bruton distributed a document he developed with Minnesota Department of Corrections Deputy Commissioner Dick Mulcrone, Hennepin County Bureau of Community Corrections Chief Mike Cunniff, and Ramsey County Corrections Department Director Joan Fabian.

The document provides a summary of the problem from both a county and state perspective and offers five options for solution which Mr. Bruton summarized for the group.

He pointed out several key points for option #1 which would convert the Lino Lakes facility to a reception center where all short-termers would go for a 60-day accountability/classification period and then those amenable to community placement would be returned to the community with accountability-driven programming. Point #1) Short-termers released after 60 days would be released within two to three months of their release dates anyway, 2) county courts would still have the option to stay execution of sentence and keep the offender at the county level, and 3) this option may need some expanded legislation with respect to the commissioner of corrections' authority.

Option #5, buying beds from counties, describes what the state is actually doing now. However, there are problems. Most county facilities are nonsmoking, have no contact visiting, and no pay for work. There are also litigation issues that have to be worked out.

#### Ramsey County Perspective

Joan Fabian indicated that the document distributed is a starting point for addressing the issue of the short-term offender. Options have lots of potential but each one also has problems.

At the present time there are 80,000 offenders on probation statewide, compared to 23,000 a decade ago. A lot of attention is focused on solving the state's bed space problems but jails are also full. Last week Ramsey County was releasing people early because they reached their capacity. They have spent over three million dollars adding 50 cells to the workhouse and are letting everyone out they possibly can to make room for those that need to be locked up.

She pointed out that the short-term offender is not necessarily nonviolent. Option #1 could be sending offenders back to the community where every effort short of prison has been made -- home confinement, treatment programs, etc.

A determination needs to be made about who is a "short-term" offender. Someone spending seven to 12 months in a county facility is considered long-term by the county. Of the 999 short-term offenders sentenced in 1992, 650 had seven or more months to serve. This is a huge number of days in a county facility.

When asked which option she preferred, Ms. Fabian indicated #4 (adjusting sentencing guidelines) and stated this could possibly be done without making a big deal about it or a public presentation on the changes.

#### Hennepin County Perspective

Mike Cunniff identified the problem as an excessive number of people with no bed space. The state needs to either change the sentencing guidelines so less people go in or create more space in the system. "Short-term offenders" is a smoke screen. They have less than a year and a day because of good time credit or credit for time they have served in a local jail.

He indicated that he is not excited about most of the options. Option #1 would not be liked by judges or probation officers. Concerning option #2, DWI offenders are most easily dealt with in terms of jobs and would be good candidates for work release. Most DWI offenders eventually get out on home monitoring. Placing them in a minimum facility further away from their jobs would create logistic problems and complicate the offender relationship with staff.

Sentencing Guidelines Perspective

Debra Dailey said that perhaps the Sentencing Guidelines Commission needs to revisit the philosophical question of what the state should do with offenders with existing resources.

Right now commission members are developing principles for ranking crimes. This is seen as a mechanism for how crimes should be treated in the guidelines. Politicians could find it more viable than being asked to reduce sentence lengths.

Senator Kelly commented that when the sentencing guidelines were developed it was a different world. The #1 issue right now with the public is crime because people don't feel safe. People are abandoning the city and are fearful for their children. Reducing the guidelines now is just not a viable option -- the legislature wants to go in the opposite direction.

Commissioner Wood indicated that last year the department had recommended several adjustments to the guidelines which would have saved about 200 beds. However, not all of the adjustments were approved by the legislature which did agree to changes that freed up about 50 beds. He doubts there would be a lot of legislative support for changing the guidelines. He added, however, that quick fixes are not good public policy and there are outcomes to document that. Adjusting the sentencing guidelines is the real solution. Building new institutions every year or two will not reduce crime.

Representative Skoglund indicated he had never seen an amendment to cut sentences.

Discussion

Sig Fine commented that crowding is a problem because of sentence lengths. He suggested another option which would give the commissioner of corrections the authority to say the offender has to be held locally, but dollars would have to be appropriated for this option. He added that this issue needs input from the bench. Commissioner Wood indicated that whatever decisions the group makes would be marketed to judges for their input.

Senator Kelly asked why every profile of beds shows about one-third taken up by DWI offenders. Sig Fine indicated that in the Hennepin County facility DWI offenders are included in the count because the county is responsible for them, but many of them are actually not taking bed space because they are on home confinement.

Commissioner Wood pointed out that the last bed space data we have for Hennepin County shows 36 percent are DWI offenders and, based on the statements from Messrs. Cunniff and Fine, this data must be analyzed to ensure that we have accurate bed impact figures.

Senator Kelly asked how many beds options #2 or #3 could free up. Commissioner Wood indicated we would need approximately 200 in the metro area and another 150 around the state for a total of 350 beds statewide.

Representative Skoglund asked if other states have DWI jails and was advised that Arizona, New Mexico and Maryland have this type of facility.

Senator Kelly asked about option #2 (a county-operated warehouse facility) and suggested that a dormitory setting with programming space would be better. Commissioner Wood explained that the word "warehouse" was used only to describe the physical structure since there are a lot of abandoned warehouses available. It was pointed out that abandoned hospital buildings would also be ideal for this purpose.

Dick Mulcrone commented that when an offender starts to fail in the community, he/she takes a lot of the probation officer's time. Solving some of the problems with short-term offender commitments may increase the level of tolerance in dealing with them in the community.

Representative Skoglund's recent experiences in speaking to groups show a high interest in building enough beds but also in making offenders work. It is important that the public accept any option decided upon by the group, and the public is interested in incarceration and making offenders work, not sitting around in jail. He understands that people held in jail awaiting trial have a right to be idle because they have not been found guilty of a crime but, for those convicted and incarcerated, they should be doing some type of work.

Commissioner Wood pointed out that any short-term facility option should have a work program component.

Representative Skoglund indicated that capital dollars are easy to get but it is more difficult to receive operating funds.

Senator Kelly suggested the group explore a combination of options #2 and #3.

Commissioner Wood pointed out that the group also needs to consider more money for reducing caseloads to increase supervision and accountability of offenders and security in the communities. Dick Mulcrone indicated that the legislature was generous last year but we are playing catch-up and need to get on an even playing field.

Russ Reetz indicated a further problem is that work release statutes are interpreted differently by local authorities. For instance, in Washington County the sheriff interprets the statute to require six months employment prior to arrest before being eligible for work release. Jim Bruton agreed, indicating that there needs to be consistency in the way work release statutes are interpreted by local officials.

Senator Kelly indicated that marketing any option is very important. The public likes programs like shock incarceration or boot camps.

Commissioner Wood suggested expanding the working group that developed the options document to include MACCAC representatives Russ Reetz and Mark Sizer and MACPO representatives Lynda Ross and Therese McCoy. The working group could be asked to work on a new proposal for review by the full group. The working group could look at various ideas suggested today such as programming for chemical dependency, work release, DWI centers, etc.

Senator Kelly suggested that a judge be included in the work group. Judges Gearin and Burke were suggested as good resources. Commissioner Wood indicated that he could call them and ask them to participate after a tentative date is set for the first meeting of the work group.

Mike Cunniff commented that long-term presumptive commit departures are taking place all around Minnesota. Downward departures occur in disproportionate numbers to upward departures. The state would need many more prisons if judges changed this pattern.

Representative Skoglund suggested that perhaps the group needs a measure of the number of cases accepted by county attorneys. A common complaint of police officers is that cases never get to trial. This is also voiced by the victims.

Next Meeting

Commissioner Wood asked that the next meeting, to be held on Monday, October 25, focus only on fees-for-service at state juvenile facilities.

The following meeting on Monday, November 8, would then focus again on the short-term offender and the proposal developed by the working group which should address: 1) enhancement of supervision in the community, 2) a combination of DWI and short-term offenders around the state, 3) inclusion of work release and chemical dependency programming at a warehouse facility.

Representative Skoglund asked for a report on warehouse facilities in other states. Sig Fine reminded the group that zoning issues must be considered for this type of facility.

Representative Skoglund asked if people on work release would pay rent for staying at the facility and was advised that they would.

Russ Reetz asked when the group would receive updated information on the types of offenders in local facilities. Commissioner Wood indicated that it is being gathered but now should include the new variable on DWI offenders on home confinement brought up at today's meeting.

At the close of the meeting, Commissioner Wood distributed a copy of a letter from David Helman, warden of the Federal Prison Camp at Duluth. In response to an inquiry from Commissioner Wood about bed availability at the facility, Warden Helman indicated that the entire federal system is overcrowded and he anticipates that the Duluth facility will be receiving inmates from other federal facilities in the near future. This would take up any beds they temporarily have available.

END OF MINUTES



Short-term Offender/Fee-for-Service Group  
Meeting Minutes - October 25, 1993

Members present:

Senator Tracy Beckman	Therese McCoy
Mike Cunniff	Lynda Ross
John Curry	Russ Reetz
David Kelliher	Representative Wes Skoglund
Senator Randy Kelly	Commissioner Frank Wood

Guests:

Harley Nelson, Ramsey County Corrections Department  
Chris Turner, Senate Research  
Shirley Flekke, Corrections Financial Services Director

Group staff:

Dan O'Brien, Assistant to the Commissioner  
Shari Burt (recorder)

A briefing paper on the Sauk Centre fee-for-service issue was distributed to participants.

Commissioner Wood read the original legislative charge to the group relating to the fee-for service issue: "...consider whether per diem fees should be assessed to counties for the costs of confining juveniles at the Minnesota correctional facilities at Sauk Centre and Red Wing."

Senator Kelly asked for clarification on what the 1993 Legislature had done on the fee-for-service issue. Commissioner Wood reported that the legislature had fully funded Sauk Centre for the second year of the biennium. However, it also left the language in for collection of actual per diems from all counties (CCA and non-CCA) utilizing services at Sauk Centre, effective July 1, 1994. It further mandated that this group make recommendations to the legislature on the fee-for-service issue.

At the present time CCA counties pay a chargeback based on a historic per diem that has increased proportionally to CCA subsidy increases; non-CCA counties do not pay a per diem.

Commissioner Wood stated that the group is faced with a public policy question: Should the state charge a fee-for-service at juvenile facilities? If so, an equitable system is needed so non-CCA counties are on a level playing field with CCA counties.

Senator Kelly asked why any deviation from the original per diem payment system was proposed. Commissioner Wood responded that converting Sauk Centre to a fee-for-service facility was one of the Department of Corrections "investment initiatives" proposed to the Department of Finance last year as a way to reduce the budget. The proposal was met with opposition from CCA and non-CCA counties as well as legislators who concluded that this was a tax shift from the state to local jurisdictions.

Senator Beckman asked why Sauk Centre was selected. Commissioner Wood responded that the facility has always been vulnerable to closure because of its distance from metropolitan areas and its poor design of small, staff-intensive units. Becoming a fee-for-service facility would enhance the potential for the long-range perpetuity of the Sauk Centre facility.

Senator Beckman correctly concluded that the state's emphasis on the development of investment initiatives was the impetus for the Sauk Centre fee-for-service proposal. He went on to conclude that this group would not be discussing this issue at the present time were it not for the state's fiscal problems.

Russ Reetz indicated that a precedent in this area was set when Thistledeew Camp became fee-for-service. Harley Nelson pointed out that kids going to Thistledeew are not state commitments. Senator Beckman added that it was easier to understand Thistledeew being a fee-for-service facility because of the special nature of its programming.

There was some discussion by group members about the intent of the legislature by passing what appears to be contradictory statutory language on this issue. Commissioner Wood speculated that the language to charge counties in the second year was left in to cover the hole in the general fund.

Harley Nelson thought it was more of a technical question about having dollars go to the general fund rather than dedicated receipts. Commissioner Wood recalled a concern of Senator Merriam's on dedicated receipts that he felt was unrelated to the fee-for-service issue.

John Curry felt that the legislature postponed collection of per diems until 1994 so this group could make recommendations to resolve the issue. Senator Kelly concurred.

Harley Nelson commented that in 1973, when the CCA was enacted, CCA counties were paying the actual per diem. Over the last 20 years inflation has increased the per diem tremendously. Commissioner Wood added that per diem increases are formula-driven and that CCA subsidies have not been appropriated by the legislature consistent with the percentage in the early years of the implementation of the CCA. Harley Nelson indicated that there is currently a 50 percent shortage in the subsidy to CCA counties.

Commissioner Wood reported that a suggestion was made during the session for counties to use criminal justice aid dollars to pay per diems but this proposal was dropped. Russ Reetz indicated that the county probation officer subsidy could also be used to pay per diems.

Russ Reetz asked if either Red Wing or Sauk Centre has the capacity to house all state juvenile commitments which would allow closing of one facility. Commissioner Wood explained that it would certainly be possible, but a location would have to be found for over 100 adults currently on the Red Wing campus. He also thought it was not good public policy to close one of the major juvenile detention and long-term program resources in Northern Minnesota at a time when all the professionals in the field say that there is a shortage of these resources.

Senator Kelly indicated that a fresh look should be taken at the whole system. Should the Department of Corrections be involved with juveniles at all? In his experience the department's main emphasis has been on adults, with little enthusiasm for juvenile programming. Is the Department of Corrections the best provider for juvenile services? Russ Reetz indicated that, if this is the case, additional resources need to be promoted.

Commissioner Wood responded that in his 34 years in corrections he feels the department, on the whole, has been doing a good job in juvenile programming. He pointed out that when the CCA was enacted in 1973, it was designed to bring down the

number of juveniles committed to the state. At that time there were over 400 kids at Red Wing and 100 boys and girls at Sauk Centre. One of the purposes of the CCA was to provide juvenile programming in the community where kids would be closer to their families and other community-based options. The state's juvenile population now fluctuates between 150 and 180 and there are counties that don't commit kids to the state at all, but instead provide excellent services in the community. For instance, Anoka County has developed very good programming for girls and the state contracts with the county to provide services for the very low number of girls it now receives.

Commissioner Wood added that he feels the state and the counties have accomplished one of the primary objectives of the CCA in terms of providing community programming to kids. However, that does not preclude Senator Kelly's suggestion of taking a fresh look at the whole issue of juvenile programming. This would be an appropriate issue for the Juvenile Justice Task Force (JJTF) as opposed to this group's charge to look at the fee-for-service issue.

Senator Kelly, who sits on the JJTF along with Commissioner Wood, believes that the recommendations made by the JJTF will include moving the age of jurisdiction of the juvenile court (from 18 to 23 for youthful offenders) and that no secure juvenile detention center is needed at this time. He does not feel the JJTF will make recommendations on some of the issues mentioned today which need to be looked at.

John Curry asked the source of the \$778,000 in revenues mentioned in the financial data section of the handout. Harley Nelson replied that those dollars would be the formula-driven per diems collected from CCA counties. Shirley Flekke added that the \$4.3 needed to operate the Sauk Centre facility if the 1993 law changes are repealed is predicated on receiving the \$778,000 in per diems.

Representative Skoglund questioned if anyone surveys counties on their plans for building or provision of programming for juveniles. It seems we should be acting together and not just focusing on what the state is doing. Commissioner Wood replied that the annual CCA comprehensive plan review provides this opportunity.

Lynda Ross commented that lack of secure detention beds is a problem in rural areas as well as metropolitan counties. In her area (Itasca County), kids are transported an average of once a month to Red Wing or Sauk Centre, or sometimes they are placed in county jails where they must be kept separate from adult prisoners which takes up even more room in the adult facilities.

Russ Reetz stated that it boils down not so much to the cost of building but, rather, operating dollars.

Senator Kelly indicated that Minnesota is becoming a regional state and that systems of delivery perhaps need to begin mirroring how our society is set up -- possibly by developing regional centers for providing juvenile services with the state as a significant partner in the process.

Harley Nelson said that joint power agreements are tricky to accomplish and that they need some kind of incentive to make them work.

Lynda Ross supports the regional concept. Rural areas are increasingly hesitant to send kids even to Sauk Centre because of the gang influence at state facilities.

Commissioner Wood advised that he has directed that a juvenile programming committee be appointed to look at the continuity and continuum of juvenile programming in the state. The committee will look at where the holes are in the juvenile justice system and will have broad representation of county, private and state professionals working with juveniles.

Commissioner Wood asked if there was any support in the group for fee-for-service programming at Sauk Centre. Hearing none, he asked if the group supported making a recommendation to the legislature to repeal 1993 legislation related to collection of per diems and that the legislature address the general fund issue as it relates to the 1993 Legislature's rejection of the Sauk Centre fee-for-service proposal.

Senator Kelly indicated that the legislature will be putting together a capital budget this session and asked if the recommendations of the juvenile programming committee, to look at current and projected needs, could be received by the first of the year. An effort could be made to at least get some planning dollars for a regional system.

Commissioner Wood indicated that the department could put a placeholder in its proposed capital budget and then bring to the legislature more specific information. Shirley Flekke advised that the department has until December 1 to put items in the budget.

Mike Cunniff said that the problem is most critical for pretrial secure juvenile detention beds and that this need is easiest to document. Other areas of need might not be as easy to document by the first of the year. Harley Nelson added that post adjudication programs are also bulging at the seams.

At the present time Hennepin and Ramsey Counties are dealing with the lack of bed space by contracting for beds in other counties or other states, early release mechanisms, and requesting dormitory waivers from the state to exceed licensed capacity. Harley Nelson pointed out that facilities should only run at about 80 percent capacity for appropriate programming and movement requirements.

Russ Reetz commented that we don't detain on an as needed basis but rather on a space available basis. In Washington County some kids are placed in foster homes when other beds are not available.

Mike Cunniff advised that another problem is the lack of an information system on kids so different localities are aware of offenses in more than one jurisdiction.

Senator Kelly indicated that his colleagues in the legislature would be far more willing to address the short-term problem of the \$4.3 million general fund hole if they felt that progress was being made toward a long-term solution.

Commissioner Wood indicated that the juvenile programming committee will have a good cross-representation of the stakeholders. They could recommend that planning dollars be requested.

Senator Kelly indicated that the short-term offender/fee-for-service group could be kept open until recommendations are received from the committee.

Senator Beckman asked what could be done in rural counties so that they don't have to transport kids, such as detention in local jails. Lynda Ross responded that philosophically she agrees with the juvenile jail removal initiative of keeping kids out of adult jails as long as beds are available for juveniles. She also pointed out that there is a continuum of care levels for juveniles.

Senator Kelly advised that the group needs to focus on where we are going to be.

Lynda Ross commented that she does not see how the Department of Corrections can get out of the juvenile business because in the last five years juvenile offenders are looking more like adult offenders.

Commissioner Wood said that Senator Kelly's suggestion to take a fresh look at the current system is a healthy thing to do. It's possible that a decision could be made to retain the current system, to have regional facilities, or perhaps develop a shared effort. There could be a broad discussion of options, including subsidizing CCA and non-CCA counties.

#### Recommendations

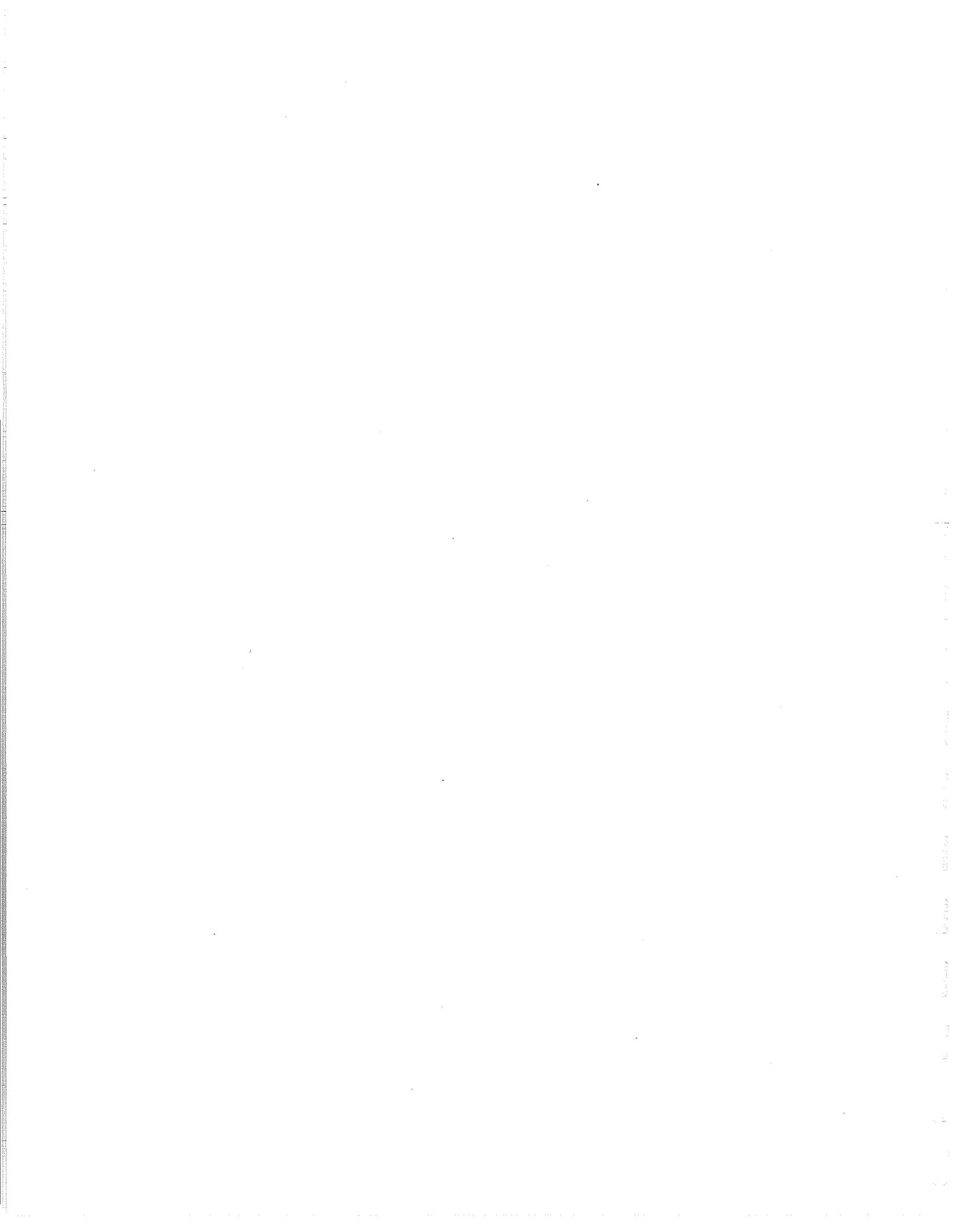
Commissioner Wood summarized the recommendations of the group:

- That the 1994 Legislature repeal Minnesota Laws 1993, Chapter 146, Section 15, relating to collection of actual per diems from all counties using services at Sauk Centre.
- That the 1994 Legislature repeal Minnesota Laws 1993, Chapter 146, Section 18, relating to collection of actual per diems from CCA counties.
- That the 1994 Legislature address the general fund issue as it relates to the 1993 Legislature's rejection of the Sauk Centre fee-for-service proposal.
- That a long-term recommendation be developed for meeting the infrastructure needs of the state, possibly on a regional basis, for pre and post adjudication purposes.

#### Next Meeting

The group will meet on Monday, November 8, at 10 a.m. The focus of that meeting will be on short-term offender issues and the report of the working group.

END OF MINUTES



Short-term Offender/Fee-for-Service Group  
Meeting Minutes - November 8, 1993

Members present:

Michael Cunniff	Russ Reetz
Debra Dailey	Lynda Ross
Joan Fabian	Mark Sizer
Dave Kelliher	Rep. Wes Skoglund
Therese McCoy	Frank Wood

Guests:

Harley Nelson, Ramsey County Corrections Department  
Jim Bruton, Minnesota Department of Corrections  
Richard Mulcrone, Minnesota Department of Corrections

Group staff:

Dan O'Brien, Assistant to the Commissioner  
Shari Burt (recorder)

At the October 18 meeting of the Short-term Offender/Fee-for-Service Group a subcommittee was asked to develop a proposal combining two options: 1) a legislatively-subsidized, county-operated dormitory facility in metro inner-cities for metro and surrounding counties' DWI offenders, and 2) a legislatively-funded, state-operated dormitory facility in metro inner-cities for metro and surrounding counties' short-term offenders.

The subcommittee met on November 4 and considered various options. A memo regarding the meeting was distributed and Jim Bruton summarized the options that the subcommittee reached consensus on:

- 1) New legislative authority for commissioner of corrections to make transitional transfer to community custody 60-90 days prior to SRD;
- 2) A short-term offender facility funded by the state and operated by the county for less serious DWI offenders, thereby making room at the county for the short-term offender;
- 3) Modify the Minnesota sentencing guidelines;
- 4) Transfer of short-term offenders to a state-operated dormitory-type facility and release them to the community 60-90 days prior to their supervised release dates to a community-operated transitional program; and
- 5) Construct a new 300-500 bed prison for the short-term offender.

Transitional transfers would move offenders' release from a state facility up to 90 days prior to their supervised release date to a transitional community-based custody program, which would be a highly supervised setting focused on work, education and chemical dependency programming. This would require expansion of the commissioner of corrections' statutory authority to transfer inmates to community-based custody which could include their residence.

Joan Fabian spoke in support of this option. She commented that crowding is also a local problem and alternatives like Sentencing to Service help but are not enough. Judges are looking at implementing local guidelines for domestic assault offenders to serve time, which is expected to increase local facility populations. Hennepin and Ramsey Counties are looking at joint development of a DWI facility to deal with anticipated population increases. Further, the system has been lacking in the area of community reintegration of offenders and a transitional transfer program could be quite helpful.

Harley Nelson read a list of possible transitional transfer custody program elements and resources. The program could be funded by a small fee paid by offenders once they are employed, general assistance, or Title 25 and other funds for chemical dependency treatment. Staff could be teams of corrections workers/agents and corrections aides. For a population of 120 offenders, it is estimated that four teams would be needed at an estimated cost of \$8-\$10 per day per offender (for supervision only). Nelson added that Minnesota does not do well with reintegration and this program, with state funding assistance, could help immensely in that regard.

Russ Reetz commented that 10-15 offenders per agent is the same level of supervision provided to public risk monitoring cases on intensive community supervision. However, offenders who are transitionally transferred would not be considered to be at that level. He added that the plan for an offender's release would be developed long before the anticipated release date. Participation in the program would be considered a privilege and not a right.

Jim Bruton added that the program would need to be incentive-driven. For instance, offenders receiving a major disciplinary report would be removed from the program.

Russ Reetz suggested that no credit be given for time served if an offender fails in the program. Commissioner Wood stated that this would require special legislation and may be considered a deprivation of a liberty interest for people who have reached their supervised release date.

Lynda Ross asked if any thought had been given to preventing juvenile offenders from getting to institutions in the first place. Funding options dry up at age 18, leaving nothing for 18-23 year olds, especially in rural areas. These are the people who end up in the adult system. Money at the front end might prevent them from getting into prison in the first place.

Russ Reetz said the key is job placement and job training which should not be limited to people coming out of prison. Programming will carry over and get used on both ends.

Commissioner Wood mentioned a conversation he had with Representative Skoglund who is looking for preventative initiatives. He suggested that such proposals be forwarded to Representative Skoglund and copied to Commissioner Wood for the department's review and possible support.

Mike Cunniff also supported the proposal for a transitional transfer program and indicated that local corrections people would be positive about it. Such a program would address the issue of institution bed space and provide sound community programming. There was truly a consensus by the subcommittee that this program was something everyone could embrace and would be good public policy. Judge Burke, who participated in the subcommittee meeting, asked Mr. Cunniff to convey his support for the program.

Commissioner Wood indicated that a rigorous research component would be a necessary element of any proposed transitional transfer program. If empirical evidence documents that the program impacts positively on recidivism, it might be possible to convince the legislature to direct the Sentencing Guidelines Commission to look at changing the guidelines with the proviso that each offender released early would be transitionally transferred.

Debra Dailey commented that there is no question that a transitional release program is an early release mechanism. Two years ago the legislature passed a truth in sentencing law and this program would be a break from that. It is embarking down the road that other states are following.

Representative Skoglund questioned if the proposed program attacks the integrity of the sentencing guidelines system and would possibly inflate all pronounced sentences. He agreed with Ms. Dailey that it puts Minnesota on a path similar to other states.

Harley Nelson commented that the option then is to build prisons and not have money for prevention and education.

Representative Skoglund questioned who would qualify for the program. Jim Bruton indicated that the criteria needs to be developed but that initially property offenders would be likely candidates. Harley Nelson added that inmates receiving disciplinary reports and those using drugs would not be eligible. Commissioner Wood commented that enabling legislation would have to be developed so that the commissioner of corrections could determine who would be eligible for release. Jim Bruton suggested that the program could be piloted in the metro area and reiterated Commissioner Wood's suggestion for a research component.

Joan Fabian pointed out that the program would be different than what is happening in Texas and other states because they are not building in the public safety component. Under the proposed program, people would be supervised intensely and employment would be a major focus.

Debra Dailey indicated that the reality is that it is a program developed to reduce prison crowding. If a transitional program is developed with very strict requirements, there will be a much higher revocation rate and offenders will return to prison anyway. What are the success rates of the intensive community supervision program or Minnesota's boot camp? Programs operating thus far have not proven to be very successful.

Harley Nelson suggested that even if one-quarter or one-half are revoked, that much bed space has been saved and those who violate have been held accountable. Jim Bruton agreed, stating that a high revocation rate is not necessarily bad; it shows that offenders are being carefully monitored and staff are doing their jobs.

Commissioner Wood commented that most states that release early do so because of court orders. When court-ordered prison population caps are reached, the state is forced to release prisoners to bring inmate populations down to system capacity caps.

Richard Mulcrone commented that the fundamental problem is too many offenders to which there are three solutions: 1) don't send so many to prison, 2) don't keep them in prison so long, or 3) build more prisons. Ultimately the public policy decision is made by the legislature based on information provided by professionals in the field. If legislators are not provided with enough information and education about possible options before they vote on any proposal, knee-jerk reactions without consideration of the long-term costs and consequences are possible.

Richard Mulcrone added that probation is not funded adequately to determine if it works. If additional dollars are to go somewhere, perhaps they should be put at the front end of the system.

Debra Dailey suggested a fourth option which would focus on what is happening in the community. She distributed a chart showing jail rates from 1978 (pre-guidelines at 35.4 percent) through 1992 (66.2 percent). Resources in the community are diminishing and jail is used increasingly as the principle sanction for probation cases. A long-term strategy needs to be developed for probation cases.

Jim Bruton reminded the group that the transitional program proposal is an option that received unified support from subcommittee members and judiciary who attended. Harley Nelson added that it is a suggested solution but if the proposal is not acceptable, the alternative is to build more prisons.

Commissioner Wood estimated that the state is looking at an additional 300 offenders per year, or one institution, without the short-term offender. Richard Mulcrone added that pressure releases need to be developed or every legislative session will be looking at a request for a new prison.

Representative Skoglund expressed additional concern about who would qualify for the program. It appears that the group is now talking about releasing state inmates to make room for county offenders and the DWI facility option has gone out the window.

Lynda Ross asked about the per diem for state versus jail facilities. Commissioner Wood indicated that Stillwater runs about \$57 and Harley Nelson said the Ramsey County Workhouse has a per diem of \$66.

Mark Sizer asked whether early release could be put in a more positive light, as a program that provides a transition period with intensive supervision and programming. Jim Bruton added that people would accept the concept of offenders in the community under appropriate transitional programming as opposed to release with no transition. The program could be perceived as a way to maximize supervision efforts.

Debra Dailey suggested the dollars be put at the front end so that people don't go to prison. Russ Reetz indicated that these efforts are already being made. He reminded the group that if it were not for judicial downward departures the problem would be much worse.

Joan Fabian commented that short-term offenders are no longer low-risk, nonviolent offenders. They have been on STS, home confinement and day reporting. They are people who would, if not for plea bargaining, have gone to prison for their offenses.

Representative Skoglund asked if the transitional transfer program would be required for every prison release. Jim Bruton responded it could be targeted by offense, level of risk, etc.

#### Recommendations

Representative Skoglund asked Commissioner Wood who is following national legislation and what impact it might have on the recommendations of the group. Commissioner Wood responded that several billion dollars may be available for regional prisons and county/state facilities, but that there are numerous stipulations such as no early release programs. He will be meeting with members of the Association of State Correctional Administrators at the end of November and should have more information at that time. Dan O'Brien commented that the Senate is attempting to pass its bill as amended this week.

Russ Reetz said that he would go with the consensus of the group but added his belief that we have the responsibility of saying what the options are; to provide easy answers falls short of our responsibilities.

There was some discussion about a recommendation to study the sentencing guidelines for possible modifications. Jim Bruton commented that Judge Burke stated that many judges can't get offenders they would like in the boot camp - Challenge Incarceration Program (CIP) because sentencing guidelines time is too high and would require a downward departure. Commissioner Wood indicated that the department has a legislative initiative to broaden the pool for CIP. Consideration could be given to allowing offenders to go to the program without a court departure if the judge so ordered.

Representative Skoglund commented that people accept boot camps because of the hard work and educational components.

Debra Dailey pointed out that Minnesota has the most draconian drug laws in the country. If the legislature is interested in reducing those sentences in conjunction with CIP, that would be another option in terms of impact.

Representative Skoglund pointed out that there already is a committee studying non-felonies and he doesn't see how the legislature can look at felonies at this time as it would be a mammoth task. Debra Dailey suggested that the commission could develop various options, with the legislature providing some sense of philosophical direction. This would eliminate investment of a large amount of time by the legislature. Commissioner Wood offered that one advantage of legislative leadership in a study committee is that it provides legislative buy-in and an enhanced potential for passage of recommendations.

There was group consensus to make the following recommendations to the legislature:

1. That the legislature appropriate additional funds to support new initiatives to enhance the supervision and transitional programming of offenders into the community. The initiative is designed to improve offender supervision and accountability, and reduce recidivism and risk to public safety by placing selected offenders who have reached their supervised release date on 90-day or 120-day transitional caseloads not to exceed 15-20 offenders. (It is essential that funds be appropriated to fund a rigorous research component to determine whether this initiative does in fact reduce recidivism).
2. That the legislature pass legislation, and appropriate funds, authorizing the commissioner of corrections to make transitional transfer of selected offenders to community custody status 90 days prior to their release date. Offenders in this status would be placed on caseloads not to exceed 15-20 offenders. This initiative is designed to provide highly structured supervision and surveillance which emphasizes work, education and special programming linkages. (This program would be piloted in Ramsey and/or Hennepin County with a rigorous research component to evaluate the cost-effectiveness of a highly structured transitional release process and its impact on state prison space and recidivism.)
3. That the legislature expand the pool of offenders eligible for the Challenge Incarceration Program to include selected nonviolent drug and property offenders who are in their last 36 months of confinement. Consideration could be given to allowing offenders to go to the program without a court departure if the judge so ordered.

4. That the legislature appropriate funds to construct/convert and operate facilities at appropriate locations around the state for the confinement and programming of short-term offenders in or near their counties of commitment.
5. That the legislature direct the Sentencing Guidelines Commission to meet with chairs of the House Judiciary Committee, Judiciary Finance Division, Senate Crime Prevention Committee and Crime Prevention Finance Division to study and develop sentencing guidelines initiatives which would reduce reliance on the state's most expensive sanction--prisons--without creating public risk.

Next Meeting

The last scheduled meeting of the group will be Monday, November 22, at 10 a.m.

END OF MINUTES

**Short-term Offender/Fee-for-Service Group  
Meeting Minutes - November 22, 1993**

**Members present:**

Michael Cunniff  
Debra Dailey  
Joan Fabian  
Dave Kelliher

Senator Randy Kelly  
Therese McCoy  
Russ Reetz  
Lynda Ross

Mark Sizer  
Rep. Wes Skoglund  
Frank Wood

**Guests:**

Jim Bruton, Minnesota Department of Corrections  
Richard Mulcrone, Minnesota Department of Corrections  
Chris Turner, Senate Research

**Group staff:**

Dan O'Brien, Assistant to the Commissioner  
Shari Burt (recorder)

A listing of proposed fee-for-service and short-term offender recommendations developed at earlier meetings was distributed to members for discussion and consensus.

**Short-term Offender Recommendations**

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*Draft Recommendation 1:* That the legislature appropriate additional funds to support new initiatives to enhance the supervision and transitional programming of offenders into the community. The initiative is designed to improve offender supervision and accountability, and reduce recidivism and risk to public safety by placing selected offenders who have reached their supervised release date on 90-day or 120-day transitional caseloads not to exceed 15-20 offenders. (It is essential that funds be appropriated to fund a rigorous research component to determine whether this initiative does in fact reduce recidivism).

Commissioner Wood stated that there are insufficient resources to manage people coming out of prison at the very time when they are most likely to recidivate (the first 120 days).

Representative Skoglund asked how offenders would be selected for transitional programming. Jim Bruton indicated that the program would in effect be an expansion of the intensive community supervision (ICS) program now in existence that puts dangerous offenders coming out of prison into small, highly supervised caseloads. He added that although criteria needs to be developed for selection of offenders for transitional programming, it would be nice to see how intensive supervision impacts those offenders not considered dangerous, in addition to those on ICS.

Jim Bruton explained that the Lino Lakes facility is currently operating the SRD (Stop the Revolving Door) program which is a very interesting concept and something the department hopes will be successful.

Senator Kelly asked who would administer transitional programming. Joan Fabian would prefer that the counties run the programs but indicated that they would be open to the state administering them.

Dick Mulcrone advised that the ICS program that is run by the private sector in Ramsey and Hennepin Counties is administered through contracts utilizing federal dollars. While there is some controversy about private-run ICS programs, the outcome of the private program has been positive and accountable. Lynda Ross indicated that in rural areas state agents administer the ICS program.

Mike Cunniff said that the state contracting with private agencies takes the decision away from the local authority which goes at the heart of community corrections.

Russ Reetz suggested that, since the counties have the responsibility for community programming, they should receive the funding but have the option of selecting a private vendor for provision of services if such services can be provided more efficiently.

Senator Kelly agreed with Commissioner Wood that additional resources are needed for caseloads which would, hopefully, positively impact recidivism and improve public safety.

The group agreed to modify recommendation 1 to ask the legislature to appropriate dollars to the Minnesota Department of Corrections for several pilot programs in metro and rural areas for an ICS-type program. Counties would apply for funds and administer as they see fit, which could include county contracts with private entities. A rigorous research component would be included in the recommendation to measure impact on recidivism and public safety.

*Amended Recommendation 1:* That the legislature appropriate additional funds to the Minnesota Department of Corrections to support new initiatives to enhance the supervision and transitional programming of offenders into the community. The initiative is designed to improve offender supervision and accountability, and reduce recidivism and risk to public safety by placing selected offenders who have reached their supervised release date on 90-day or 120-day transitional caseloads not to exceed 15-20 offenders. It is recommended that the department award these funds to counties for establishment of several pilot programs in metro and rural areas based on the intensive community supervision (ICS)-type program model. Counties would apply for funds and administer the programs in the manner they deem most appropriate, including county contracts with private entities. (It is essential that funds be appropriated to fund a rigorous research component to measure the impact on recidivism, prison space and public safety.)

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**Draft Recommendation 2:** That the legislature pass legislation, and appropriate funds, authorizing the commissioner of corrections to make transitional transfer of selected offenders to community custody status 90 days prior to their release date. Offenders in this status would be placed on caseloads not to exceed 15-20 offenders. This initiative is designed to provide highly structured supervision and surveillance which emphasizes work, education and special programming linkages. (This program would be piloted in Ramsey and/or Hennepin County with a rigorous research component to evaluate the cost-effectiveness of a highly structured transitional release process and its impact on state prison space and recidivism.)

Representative Skoglund indicated that there was no support in the House for this recommendation.

The group discussed why this recommendation was made, that it was not viewed as the best idea but simply as a possibility that should be discussed by the group. Members shared previous discussion on this recommendation with Senator Kelly, who was not able to attend the November 8 meeting.

Senator Kelly indicated that he could appreciate the efforts and intentions of the group in making this recommendation but, as Deb Dailey indicated at the last meeting, such a recommendation would be an early release program. A broad view has to be taken by those in elective office, not just to manage beds or make things easier for the state or the counties. If we are going to have a system that holds people accountable for their actions, we need to be willing to pay for it. No one has faith in systems that go down the path of early release programs.

The group agreed to strike recommendation 2.

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**Draft Recommendation 3:** That the legislature expand the pool of offenders eligible for the Challenge Incarceration Program to include selected nonviolent drug and property offenders who are in their last 36 months of confinement. Consideration could be given to allowing offenders to go to the program without a court departure if the judge so ordered.

Representative Skoglund questioned the meaning of the last sentence in this recommendation, "Consideration could be given to allowing offenders to go to the program without a court departure if the judge so ordered."

Commissioner Wood explained that the judge would not have to "take the hit" of a downward departure, and go on the record with reasons for departure, where he/she might be viewed as being soft on crime. Instead, the judge could recommend that the commissioner of corrections consider an offender for the CIP program. The commissioner would then make the decision based on existing departmental criteria and criteria yet to be developed by the department. The CIP statute would have to be modified to permit this option.

Deb Dailey advised that judges are departing dispositionally downward and retaining drug offenders in the community. If you widen the net for CIP participation by use of the above recommended language, judges may end up sending people to prison who otherwise would not have gone there, in the hopes that they would be placed in CIP. Group members agreed that Deb Dailey had an excellent point and that use of this language was not wise.

Senator Kelly commented that CIP was always viewed as a prison diversion program. He recommended forgetting about downward departures, keep the program full with 40 at the front end and work toward getting 40 at the back end. Jim Bruton said it could be a long-range incentive for incarcerated offenders.

The group agreed to strike the last sentence from recommendation 3.

*Amended Recommendation 3:* That the legislature expand the pool of offenders eligible for the Challenge Incarceration Program to include selected nonviolent drug and property offenders who are in their last 36 months of confinement.

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*Draft Recommendation 4:* That the legislature appropriate funds to construct/convert and operate facilities at appropriate locations around the state for the confinement and programming of short-term offenders in or near their counties of commitment.

Commissioner Wood asked if the state were to say that the responsibility for short-term offenders rests with the counties, but that the state would fully fund operations to keep short-term offenders at the county level, would that be acceptable to the counties?

Lynda Ross replied that in rural counties this would require/encourage regionalization.

Mike Cunniff stated that the concept of being sentenced to less than a year is a facade because of good time and jail credit. Responsibility for short-term offenders has historically been that of the state. Regional efforts at the local level, in the long haul, are appropriate for local offenders. However, when counties exhaust all local sanctions for offenders, these people need to go to state facilities.

Russ Reetz indicated that it may not work in Hennepin and Ramsey Counties but may be workable in other areas.

Mike Cunniff added that the state, through its purchase of local beds, is now having to deal with issues that the counties have faced for some time such as litigation, inmate complaints about a more restrictive setting, etc. Additionally, there is inconsistency in the per diem paid.

Commissioner Wood indicated that in the second year of the biennium, over \$8 million will be needed for state purchase of local beds. He agreed with Mike Cunniff that something needs to be done to address the inconsistencies in per diem amounts.

Jim Bruton said the practice of purchasing local beds is fraught with problems and it is not a wise way for the department to operate. The department had to indemnify one county against litigation, and issues such as no smoking, non-contact visiting, etc., have caused numerous complaints by inmates, the ombudsman and the Public Defender's Office.

Commissioner Wood suggested expanding recommendation 4 to include a pilot project involving a grant. Dick Mulcrone suggested including both options (state operated and a pilot project through a grant) in the recommendation.

The group concurred with Dick Mulcrone's suggestion.

***Amended Recommendation 4:*** That the legislature appropriate funds to construct/convert and operate facilities at appropriate locations around the state for the confinement and programming of short-term offenders. Whenever feasible, these facilities should be located so that incarcerated offenders are in or near the county of commitment. In addition, it is recommended that funds be appropriated to the Minnesota Department of Corrections for a pilot grant program under which counties would be eligible to apply for funds to construct/convert and operate facilities for the short-term offender.

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***Draft Recommendation 5:*** That the legislature direct the Sentencing Guidelines Commission to meet with chairs of the House Judiciary Committee, Judiciary Finance Division, Senate Crime Prevention Committee and Crime Prevention Finance Division to study and develop sentencing guidelines initiatives which would reduce reliance on the state's most expensive sanction—prisons—without creating public risk.

Representative Skoglund suggested and the group agreed to replace the words "reduce reliance on" with "better utilize".

Joan Fabian asked and the group agreed that the recommendation include a provision to address any cost to counties if guidelines modifications occur which would increase the number of offenders kept at the local level.

***Amended Recommendation 5:*** That the legislature direct the Sentencing Guidelines Commission to meet with chairs of the House Judiciary Committee, Judiciary Finance Division, Senate Crime Prevention Committee and Crime Prevention Finance Division to study and develop sentencing guidelines initiatives which would better utilize the state's most expensive sanction—prisons—without creating public risk. It is also recommended that the legislature address additional costs incurred by the counties as a result of any guidelines initiatives which have the effect of increasing the number of offenders sanctioned at the local level.

## **Fee-for-Service Recommendations**

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***Recommendation 1:*** That the 1994 Legislature repeal the amendments made by 1993 Minnesota Laws, Chapter 146, Article 2, Section 15, which require collection of actual per diems from all counties using services at the Sauk Centre facility.

***Recommendation 2:*** That the 1994 Legislature repeal the amendments made by 1993 Minnesota Laws, Chapter 146, Article 2, Section 18, which require collection of actual per diems from CCA counties.

**Recommendation 3:** That the 1994 Legislature address the general fund issue as it relates to the 1993 Legislature's intended rejection of the Sauk Centre fee-for-service proposal.

Recommendations 1, 2 and 3 were approved by the group.

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**Draft Recommendation 4:** That a long-term recommendation be developed for meeting the infrastructure needs of the state, possibly on a regional basis, for pre and post adjudication purposes.

Representative Skoglund questioned whether there would be enough time to develop anything that the legislature could address this session.

Senator Kelly advised that the Supreme Court Advisory Task Force on the Juvenile Offender will most likely recommend regional secure juvenile facility beds.

The group discussed problems involved with transporting juveniles around the state for detention and hearings, including the amount of staff hours involved. Representative Skoglund suggested that many of the hearings could be conducted via interactive television systems and recommended amending recommendation 4 to incorporate appropriate language.

Commissioner Wood indicated that he had served on a Supreme Court committee some years ago that studied possible use of interactive television systems but that there was significant resistance to the proposal by defense attorneys and some judges. He added that the Department of Human Services has all of its institutions on such a system. David Kelliher commented that the state's STARS network is working on development of systems for state agencies.

Commissioner Wood questioned whether proposing a recommendation on interactive television systems would be outside the scope of the group's legislative mandate to "consider whether per diem fees should be assessed to counties for the costs of confining juveniles at the Minnesota correctional facilities at Sauk Centre and Red Wing." Senator Kelly responded that it would not be outside the group's legislative mandate because it impacts costs to both the state and counties.

Commissioner Wood indicated that the department's capital budget request could include a placeholder that states that planning money for regional juvenile detention beds should be appropriated to fund regional juvenile detention planning grants.

Commissioner Wood suggested that the recommendation could specify a pilot project utilizing interactive television technology. Dick Mulcrone suggesting asking the legislature to appropriate dollars to study how such a system could be set up.

The group agreed to amend recommendation 4 to include study of implementation of interactive television systems for adult and juvenile hearings, and development of a pilot project.

**Amended Recommendation 4:** That a long-term recommendation be developed for meeting the infrastructure needs of the state, possibly on a regional basis, for pre and post adjudicated juvenile offenders. It is also recommended that the legislature

appropriate funds to study the feasibility and viability of the use of interactive television systems for adult and juvenile non-court hearings throughout the state. If this study indicates interactive television is a feasible and viable option for adult and juvenile hearings, it is recommended that the legislature appropriate funds to establish a pilot interactive television project for this purpose.

### **Other Discussion**

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Senator Kelly asked if the federal crime bill would provide assistance to the state. Commissioner Wood responded that he had just returned from a meeting of the Association of State Correctional Administrators (ASCA) who felt strongly that the bill contains many regressive, unfunded mandates predicated on poor public policy. He will forward to group members for their information a summary of the bill prepared by the Federal Bureau of Prisons and a letter from ASCA membership to the Speaker of the House.

Senator Kelly asked if costs of the group's proposed recommendations had been determined. Commissioner Wood indicated that they had not because the recommendations had not been finalized. Fiscal impact will be developed before the legislative session starts, hopefully by the middle of January.

Commissioner Wood advised that the report to the legislature will be forwarded to members in draft form by December 13. Members are asked to respond with any changes or comments by December 17. The report will then be prepared in final format and forwarded to the legislature before Christmas, hopefully by December 23.

Senator Kelly indicated that he was delighted with the openness and cooperation of the department under the direction of Commissioner Wood. He also commended Shari Burt for preparation of the minutes for group members.

Commissioner Wood closed the meeting by thanking members for their time, efforts, and willingness to come to consensus on these very challenging issues.

END OF MINUTES