

EXCERPT OF



**PREDATORY OFFENDER STATUTORY FRAMEWORK
WORKING GROUP**

Report to the Minnesota Legislature
February 1, 2022

PREDATORY OFFENDER STATUTORY FRAMEWORK WORKING GROUP

Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, MN 55104
(Phone) 651-361-7200

<https://mn.gov/doc/about/legislative-info/por-working-group/>

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Omitted from this excerpt:

- Appendix B.** Pickett, Satifka, & Shah, "Labeled for Life: A Review of Youth Sex Offender Registration Laws" (Juvenile Law Center, 2020) (retrieved Nov. 5, 2025, at <https://jlc.org/resources/labeled-life-review-youth-sex-offender-registration-laws>).
- Appendix F.** SORNA Substantial Implementation Review, State of Minnesota" (U.S. Dep't of Justice, Sept. 2016) (retrieved Nov. 5, 2025, at https://mn.gov/doc/assets/SORNA%20Minnesota-2016-substantial-implementation-review_tcm1089-515046.pdf).
- Appendix G.** Spear, "Adolescent Neurodevelopment" (Journal of Adolescent Health 52(2): S7-S13, 2013) (retrieved Nov. 5, 2025, at <https://www.sciencedirect.com/science/article/pii/S1054139X12002078/pdf>).
- Appendix H.** Wang, "Paying the Piper: The Cost of Compliance with the Federal Sex Offender Registration and Notification Act" (N.Y. Law School Law Review 59(4): 681, 2014) (retrieved Nov. 5, 2025, at https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1139&context=nyls_law_review).
- Appendix J.** Flattery & Noel, "Sex Offender Registration and Notification Policies: Summary and Assessment of Research on Claimed Impacts to Registered Offenders" (Library of Congress Federal Research Division, Oct. 2020) (retrieved Nov. 5, 2025, at <https://www.ojp.gov/library/publications/sex-offender-registration-and-notification-policies-summary-and-assessment>).

Executive Summary

In 1991, Minnesota enacted legislation to create the Sexual Offender Registry. Thirty years later, in 2021, the Minnesota Legislature passed several changes to the statutory framework for criminal sexual conduct crimes. These changes resulted from the work of the Criminal Sexual Conduct Statutory Reform Working Group (CSC Working Group) and its report to the legislature in January 2021.

The CSC Working Group Outcomes Subcommittee recommended that if there was going to be any reform that expanded the criminal sexual conduct statute, the Predatory Offender Registry (POR)¹ also needed to be evaluated for reform. Because issues concerning the POR were technically outside the scope of the CSC Working Group mandate, the subcommittee presented proposed legislation to address key areas of concerns. The proposal included a recommendation that a POR working group be established.

The legislature followed the recommendation in the report and created the Predatory Offender Statutory Framework Working Group (POR Working Group). The POR Working Group's work is the first time Minnesota has ever comprehensively studied the registry to determine whether it is effective and serving the public as originally intended.

The initial areas of proposed reform by the Outcomes Committee of the CSC Working Group included the following:

1. Eliminate or limit registration requirement for adjudicated juveniles;
2. Apply registration requirement to convictions only; (not same set of circumstances/probable cause determination);
3. Eliminate/modify the restart provisions; and
4. Provide an avenue of relief from registration.

In creating the POR Working Group, the legislature directed the Commissioner of Corrections to collaborate with the Commissioner of Public Safety to convene experts in the field of criminal law to do that work and determine whether changes were needed.

Over the past several months, the Department of Corrections and the Department of Public Safety identified individuals with specific expertise and convened the working group and multiple subgroups. Pursuant to the law, the working group was directed by legislature to include representatives from each of the following groups, in addition to other interested parties:

- City and county prosecuting agencies
- Statewide crime victim coalitions
- The Minnesota Judicial Branch
- The Minnesota Board of Public Defense and private criminal defense attorneys
- The Minnesota Department of Human Services
- The Minnesota Sentencing Guidelines Commission
- Juvenile justice practitioners
- State and local law enforcement agencies

¹ Minn. Stat. § 243.166 governs the administration of the POR.

The POR Working Group first met on August 30, 2021, and appointed three co-chairs: Stacy Bettison, Minnesota Association of Criminal Defense Lawyers; Sheriff Troy Heck, Benton County, Minnesota Sheriffs Association; and Angela Kiese, Assistant Attorney General, Minnesota Attorney General’s Office. The POR Working Group broke into three subgroups for focused discussion and analysis of:

1. Requirements placed on registrants;
2. Crimes for which registration is required; and
3. The methods by which registration requirements are placed on registrants.

The subgroups met biweekly, with cochairs generally meeting on alternate weeks. A series of issues emerged from the subgroup meetings that were developed into proposals brought to the full working group for consideration.

A variety of issues led to significant conversation as the group progressed in its work. Most proposals that emerged had large majority, though not unanimous, support among the group.

In light of the proposed legislative reform included herein, as well as the recommendations for further data collection and study of the registry, the POR Working Group requests the legislature hold hearings to further analyze and find ways to implement the Working Group’s recommendations. Those hearings will provide the additional information legislators need to better understand why reform and further study of the 31-year-old registry is being requested.

MAJORITY SUPPORT: LEGISLATIVE REFORM IN FIVE (5) KEY AREAS

Five proposals identified by the Working Group had wide-scale support from a majority of members:

1. **Registration Requirements for Juveniles:** The Working Group discussed whether juveniles should be removed from the Predatory Offender Registry, or whether juvenile registration should be limited by age of juvenile when committing the offense or type of offense.
2. **Amending the “Same-Set-of-Circumstances” Provision:** The Working Group considered the elimination of offenses from the “same set of circumstances” provision of registration focusing on whether the crime of false imprisonment should be included.
3. **Amending Restart Registration Periods:** The Working Group discussed reducing the number of crimes that serve as the trigger for the re-start of the registration period. The re-start would only trigger for felonies and crimes against the person, excluding other misdemeanors and gross misdemeanors altogether – or otherwise modifying the re-start list in a more limited way.
4. **Providing Registrants Who Have Established a Record of Compliance and Meet Other Criteria an Opportunity to Petition for Removal from the Registry:** Many registrants do not pose a high risk of committing another predatory offense and have been meeting their registration obligations consistently. The group’s discussion focused on providing registrants a motivation to fully comply with all their probationary, supervised release conditions and registration requirements by providing an incentive to be removed from the registry, much like expungement.
5. **Evaluation of Mandatory Minimums for Failure to Register:** The Working Group discussed whether to eliminate mandatory minimum for first-time convictions for Failure to Register.

The Working Group discussed potential options to limit mandatory minimums to those with more than one offense.

These five issues remained at the forefront of discussion for much of the POR Working Group's relatively brief meeting timeframe, with a possibility of becoming recommendations to the legislature. They are in large part the focus of this report; there was some agreement on their value, but not complete consensus.

CONSENSUS RECOMMENDATION: MORE DATA NEEDED

The Working Group agreed to recommend additional data collection and analysis to better evaluate the efficacy of the POR system. The group agreed on the need to enhance the ability to extract summary data from the registry system and add data points for collection and consider ways to assist those less able to comply with the registration system requirements.

FURTHER STUDY NEEDED: ISSUES DISCUSSED WITHOUT RECOMMENDATION

1. **Assistance for Registrants with Unique Challenges to Compliance:** The Working Group concluded there is a need for further analysis on ways to ensure community safety related to those less able to comply with the registry due to homelessness or institutionalization either for mental or physical health care needs.
2. **Statutory Name Change:** The Working Group discussed changing the term "Predatory Offender" to reflect a more accurate description of those subject to registration.
3. **Collateral Consequences:** The Working Group also discussed in a limited manner without recommendations but meriting further review collateral consequences of registration both directly within statute and indirectly associated with registration status including employment restrictions and residency restrictions imposed by local ordinances.

Some members expressed the view that though courts have held that the POR is not punitive for purposes of constitutional review, the collateral impacts and felony level criminal liability for Failure to Register have the hallmarks of a punitive statute.

4. **Need for Disparity Analysis:** The working group concluded there should be a disparity analysis related to how offenders of varying races are impacted by the registration statute and failure to register convictions.

Statutory Authority

The legislature enacted a new law in 2021 that provided the statutory direction for the Predatory Offender Statutory Framework Working Group (hereafter referred to as POR Working Group). That law is below.

2021 Minnesota Session Laws, Chapter 11, Article 4, Sec. 30

Sec. 30. **PREDATORY OFFENDER STATUTORY FRAMEWORK WORKING GROUP; REPORT.**

Subdivision 1.

Direction.

By September 1, 2021, the commissioner of corrections shall convene a working group to comprehensively assess the predatory offender statutory framework. The commissioner shall fully coordinate with the commissioner of public safety to invite and convene a working group that includes members that have specific expertise on juvenile justice and representatives from city and county prosecuting agencies, statewide crime victim coalitions, the Minnesota judicial branch, the Minnesota Board of Public Defense, private criminal defense attorneys, the Department of Public Safety, the Department of Human Services, the Sentencing Guidelines Commission, and state and local law enforcement agencies. The commissioner may also invite other interested parties to participate in the working group. The commissioner shall ensure that the membership of the working group is balanced among the various representatives and reflects a broad spectrum of viewpoints, and is inclusive of marginalized communities as well as victim and survivor voices. The commissioners of corrections and public safety shall each designate one representative to coordinate and provide technical expertise to the working group.

Subd. 2.

Duties.

The working group must examine and assess the predatory offender registration (POR) laws, including, but not limited to, the requirements placed on offenders, the crimes for which POR is required, the method by which POR requirements are applied to offenders, and the effectiveness of the POR system in achieving its stated purpose. Governmental agencies that hold POR data shall provide the working group with public POR data upon request. The working group is encouraged to request the assistance of the state court administrator's office to obtain relevant POR data maintained by the court system.

Subd. 3.

Report to legislature.

The commissioner shall file a report detailing the working group's findings and recommendations with the chairs and ranking minority members of the house of representatives and senate committees and divisions having jurisdiction over public safety and judiciary policy and finance by January 15, 2022.

Acknowledgements

The POR Working Group was made up of community representatives and public service and criminal justice professionals from all parts of Minnesota with interest in or whose work includes or is affected by the predatory offender registration system. These working group members, with input from other experts and public members, reviewed and analyzed the myriad of complicated registration issues in a very short timeframe. We are grateful to the working group members who invested considerable time and effort to ensure that they fulfilled the legislative intent by identifying and considering the broad range of issues identified and represented in this report.

The Working Group was also served by two coordinators who led the facilitation and coordination of meetings and ensured timely access to information and data: Mark Bliven, Director of Risk Assessment and Community Notification for the Minnesota Department of Corrections and Olivia Anderson, Senior Legal Analyst for the Bureau of Criminal Apprehension. The Working Group wishes to thank them for their invaluable efforts and support for our work.

Working Group Members

Co-chair Stacy Bettison, Minnesota Association of Criminal Defense Lawyers

Co-chair Sheriff Troy Heck, Benton County, Minnesota Sheriffs Association

Co-chair Angela Kiese, Assistant Attorney General, Minnesota Attorney General's Office

Kelly Moller, Minnesota State Representative, House District 42A

Marion O'Neill, Minnesota State Representative, House District 29B

Bill Ingebrigtsen, Minnesota State Senator, Senate District 8

Shane Baker, Kandiyohi County Attorney, County Attorneys Association

Sarah Colford, Break the Silence, Survivor

Lt. Jeremy Cossette, White Earth Tribal Police, Tribal Representative

Katrinna Dexter, Director of Juvenile Justice Reform, Minnesota Dept of Corrections

James D. Fleming, Chief Public Defender Second Judicial District Board of Public Defense

Josh Florell, Special Agent in Charge, Bureau of Criminal Apprehension – Predatory Crimes Unit

Jannine Hebert, Clinical Director, Minnesota Department of Human Services

Brian Heinsohn, Risk Assessment Supervisor, Minnesota Dept of Corrections

Karen Kampa Jaszewski, Senior Attorney, State Court Administrator's Office

Anishaa Kamesh, Break the Silence, Survivor

Nicole Matthews, Executive Director, MN Indian Women's Sexual Assault Coalition, Victim Service Organization Representative

Katie Meiers, Program Administrator, Bureau of Criminal Apprehension – Predatory Offender Registration Unit

Renee Meerkins, Hennepin County Dept of Community Corrections and Rehabilitation

Chris Nelson, Eckberg Lammers Attorneys-at-Law, City Attorney Representative

Nate Reitz, Executive Director, Minnesota Sentencing Guidelines Commission

Sherry Schultz, Citizen Representative, City of Victoria

Linda Sloan, Council for Minnesotans of African Heritage

Chief Mike Tusken, City of Duluth Police Department, Chiefs of Police Association

Patty Wetterling, Advocate and Past Chair, National Center for Missing and Exploited Children Board of Directors

PREDATORY OFFENDER STATUTORY FRAMEWORK WORKING GROUP REPORT

Introduction

Jacob Wetterling was abducted on October 22, 1989 and, at the time, there was no state system for tracking individuals convicted of a sex crime. There was no catalogue of updated addresses or accessible information on similar crimes, and the lack of both made suspect pool development difficult for law enforcement. So, the legislature moved to create a registry to provide this necessary information to law enforcement.

On August 1, 1991, the Minnesota Sex Offender Registry began registering adult individuals. It was intended to be a law enforcement tool to identify and clear suspects in cases involving kidnapping and/or sexually offending against children. The only individuals with access to the registry were law enforcement; the registry was to be used for law enforcement purposes. This intent was affirmed by the 1999 Minnesota Supreme Court in *Boutin v. LaFleur*².

The Registry in 1991 only included individuals released from incarceration who had committed specific crimes against children. Each individual's registration period was 10 years long and registrants simply had to provide their home address and notice 10 days prior to moving. Failing to register was a misdemeanor crime. The registry and registration process would be changed by legislation and case law nearly every year from that point on.

Provisions added in the immediate years following implementation included the addition of the "same set of circumstances" provision to reflect the expansion of the crimes that would result in registration including those committed by juveniles, interstate compacts to require the registration of individuals traveling to or moving to Minnesota and making failing to register a gross misdemeanor. The law was also modified to require all individuals committed as "sexually dangerous persons" or "sexual psychopathic personalities" to register.

In both 1996 and 1997 the legislature made substantive modifications to the experiences of registrants, outside of the Registration process. These included the development of provisions of community notification as well as the assignment of risk levels to individuals being released from incarceration.

While that law took effect, so did the verification process for addresses of registrants as well as notice to local authorities when a registrant moved into their jurisdiction.

Further legislative changes to the registration statute were made in 2000 and 2004, in response to the abductions and murders of Katie Poirier and Dru Sjodin, respectively.

"Katie's Law" expanded the list of offenses further and the name of the registry was modified to reflect those now included, who were not limited to individuals accused or convicted of a sex crime. The newly named "Predatory Offender Registry" required registrants to provide information on any property they leased, owned, or rented as well as data on their vehicle, place of employment, and school location. The law also made public information on non-compliant registrants and created re-starts of registration

² *Boutin v. LaFleur*, 591 N.W.2d 711 (Minn. 1999).

periods for those who were incarcerated for committed crimes or parole revocation of the offense for which they registered. Lifetime registration was required for those who had committed certain crimes and failing to register was elevated to a felony-level crime. Additionally, a new statutory section, Minn. Stat. 243.167 was added, which required people to register for crimes against the person if they had certain prior history of registration-type offenses.

Throughout 2004 and 2005, the legislative branch discussed Dru Sjodin's abduction, rape, and murder extensively, making changes to statute.

In addition, during this time period, changes were made to registration requirements for homeless registrants as well as expansion of the re-starts to include those who were incarcerated for any new crime or for any parole revocation.

Today, the registry is accessible to law enforcement and corrections officials. The Department of Human Services also has access to the data for the purposes of background studies and state operated services. There are approximately 18,089³ registrants in the state of Minnesota, the vast majority of whom are white males and over the age of 18, living in residences throughout the state. Between 2010 and January 25, 2022, authorized agencies and the BCA accessed the registry 6,936,320 times for all purposes, including the completion of paperwork and statutorily required searches.⁴

Working Group Background

The Department of Corrections and the Department of Public Safety jointly identified and secured the participation of POR Working Group members in accordance with 2021 session laws. The first meeting was held on August 30, 2021, at which point the full group established three subgroups. The subgroups, cochairs, and the POR Working Group met on a bi-weekly basis in September and October. The subgroups concluded their work at the end of November 2021, and the Working Group had its final formal meeting on January 26, 2022 leading to report preparation and adoption.

All full POR Working Group and subgroup meetings were recorded and made available on the Working Group website maintained by the Department of Corrections: <https://mn.gov/doc/about/legislative-info/por-working-group/>. The meetings were conducted via Zoom for Government and were open to the public. The public was permitted to ask questions and make comments in the last 5-10 minutes of the public meetings. Resources and attachments were also available to all members and the public on the Working Group webpage.

³ Minnesota Bureau of Criminal Apprehension. January 21, 2022.

⁴ Ibid. There is no data available at this time to understand how many of the nearly seven million access points into the registry during this 11-year-plus-period were for the purposes of identifying and clearing suspects to investigate a sex crime with an unknown assailant, which is one of the grounds for supporting additional data collection to understand how law enforcement uses the registry as an investigatory tool.

Issues Reviewed by POR Working Group

MAJORITY SUPPORT: FIVE CRITICAL AREAS FOR LEGISLATIVE REFORM

A majority of the POR Working Group makes the below recommendations on five (5) critical areas. Attachments in this report include minority opinions on the proposed recommendations (Supplement 1). Some areas may provide greater detail than others, due to data availability and timelines. Additional issues of lesser agreement are discussed in this section as well.

The five proposed areas of reform of the POR Working Group are:

1. Eliminate or limit registration requirement for adjudicated juveniles;
2. Apply registration requirement to convictions only (not same set of circumstances/ probable cause determination);
3. Eliminate/modify the restart provisions;
4. Provide an avenue of relief from registration; and
5. **Limit mandatory minimum for failure to register crimes.**

Of these, the first four were originally part of the CSR Working Group; the fifth arose organically in the POR Working Group.

CURRENT REGISTRATION REQUIREMENTS

A discussion of each of the five critical areas recommended for reform follows, but first a note about current registration requirements in Minnesota. Minnesota law currently requires registration pursuant to Minn. Stat. § 243.166, subd. 1b, for any person charged with, petitioned for, or Court Martialed for a violation of, or attempt to violate, or aiding, abetting or conspiracy to commit enumerated crimes and convicted of, or adjudicated delinquent for that offense or for an offense arising out of the same set of circumstances.

"Same set of circumstance" applies to federal and out of state offenders who commit their offense on or after 8/1/2014, prior to this date registration is based on conviction only. See Appendix A, *Minnesota Predatory Offender Registry - Who is Required to Register*

Each of the five proposed reform areas are outlined below.

1. Removal of or limiting juveniles in the registration system

Minnesota law currently requires children as young as 10 years of age to be registered as a Predator Offender. Compared to other states, Minnesota has one of the most expansive frameworks for juvenile registration in the nation. See Appendix B, *Labeled for Life , A Review of Sex Offender Registration Laws, Juvenile Law Center.*

A number of states do not have juvenile registration at all. Most, however, have limitations, particularly in regard to what circumstances require a juvenile to register. While there are currently 50 juveniles on the state registry⁵ there are many more adults currently subject to registration based solely on a juvenile

⁵ Ibid.

adjudication. Since the registry was not designed to track this information, the Minnesota BCA does not have the ability to pull such data. An estimated 20% of those with a prison sentence for failure to register fall under that category solely based on a juvenile adjudication. See Appendix C, *Those currently incarcerated in the DOC with a Failure to Register conviction commit to prison in their history.*

Throughout the meetings of the POR Working group, there was considerable discussion on the extremely difficult challenge of children who have caused sexual harm. There was general recognition that the adolescent brain undergoes significant transformations, along with increasing hormone levels and other biological changes. Those factors, coupled with cultural, economic and psychological forces shape how adolescents behave and are relevant, to some degree, in shaping public policy around juveniles and the criminal justice system.⁶ There was also general recognition that juveniles with problematic sexual behavior (PSB) present unique challenges in terms of who their victims tend to be (e.g., one study found that 70-77% percent of sexual abuse against children or adolescents is committed by other children or teens)⁷, intrafamilial issues (when the parent is both parent of victim and parent to child who caused sexual harm), and how treatment for PSB may differ from children to adults.

There was complete agreement to hold children with PSB accountable and ensure that they receive⁸ monitoring and treatment, community supervision, family counseling and emerging tools. The disagreement, however, came regarding whether to remove juveniles and under what age limits and circumstances to remove them from the registry.

There is strong research to show that treatment is effective at reducing sexual reoffending. For instance, low (i.e. 2%) sexual recidivism rates in children have been demonstrated in a 10-year follow up study of a randomized clinical trial of a short-term, community based PSB specific cognitive behavioral treatment condition.⁹ A meta-analysis reviewing 107 studies found that across behavior type, over 97% of children charged with sexual offenses never harm sexually again.¹⁰

There is also research to show that registering children and labelling them as sex offenders causes significant harm ranging from educational discrimination to ostracism, vigilantism, homelessness, and a higher rate of suicide (hopelessness),¹¹ all of which are associated with sexual re-offense.

In contrast to adults with illegal sexual behaviors, youth with PSB tend to have fewer victims than adults, the acts are more likely to be impulsive, situational, and transient, and most do not demonstrate deviant

⁶ See Spear, Linda Patia. “Adolescent Neurodevelopment.” *Journal of Adolescent Health*. May 23, 2012. (Appendix H)

⁷ See “Summary and Compilation of Research Articles regarding PSB in Juveniles.” (Appendix I)

⁸ Ibid.

⁹ Carpentier, M.Y., Silovsky, J.F. and Chaffin, M. “Randomized Trial of Treatment for Children with Sexual Behavior Problems: Ten-Year Follow-Up.” *Journal of Consulting and Clinical Psychology*, 74(3), 2006, pp 482-488.

¹⁰ Chaffin, M. “Our Minds Are Made Up – Don’t Confuse Us with the Facts: “Commentary on Policies Concerning Teen and Preteen Juvenile Sex Offenders.” *Child Maltreatment*, 13, 2008, pp 110-121.

¹¹ Letourneau, E. J., Harris, A. J., Shields, R. T., Walfield, S. M., Ruzicka, A. E., Buckman, C., Kahn, G. D., & Nair, R. “Effects of Juvenile Sex Offender Registration on Adolescent Well-Being: An Empirical Examination. *Psychology, Public Policy, and Law*, 24(1), 2018, pp.105–117.

sexual arousal or sexual interest in children much younger than themselves.¹² The research and data show that most juveniles who engage in PSB are not beginning down a path of lifelong behavior.¹³

A majority of working group members supported removing juveniles entirely from the registration system, while others preferred an age limit or limiting registration to only the most severe crimes. Other members supported the continued registration of juveniles, seeing the adjudicated behavior as providing valuable recorded information for law enforcement that would be lost or difficult to access if the juvenile was not on the registry.

There was strong support for the core value that the juvenile system is meant to be a unique intervention that should not be tied to or associated with the adult system. Supporters of removing juveniles from the registry noted that all other juvenile intervention and monitoring tools would remain in effect.

Some of the proposals discussed included:

1. Removal of those under the age of 14;
2. Leaving the registration issue to the discretion of the juvenile court;
3. Allowing an extension of a Stay of Adjudication from 12 months to 18 or 24 months to allow for completion of treatment before a final decision on the stay; and
4. Limiting the offenses for which juveniles are required to register to most dangerous offenses or only juveniles treated as Extended Jurisdiction Juveniles (EJJ) or certified for adult prosecution.

Supplement 2: Draft statutory language is provided to remove juvenile adjudications but retain registration for those certified as adults (ages 14-17) who would then fall under the same requirements as adults. Proposed language related to other possible amendments to the juvenile registration requirements were not drafted. **(Supplement 2 is omitted from this excerpt.)**

2. Modifying the registration requirement for the crime of false imprisonment

Minnesota uses the “same-set-of-circumstances” as a trigger to require registration. Minnesota appears to be the only state where an individual does not need to be convicted of a listed registration crime, but instead only convicted of that or another offense arising out of the same-set-of-circumstances. In effect, once charged with a registration offense, a person is required to register if the person is convicted of that offense or another offense arising out of the same set of circumstances.

Using an example, a defendant charged with both kidnapping (an offense requiring registration) and 5th degree assault (an offense not requiring registration) would be required to register even if that defendant were only convicted of the 5th degree assault charge because of the “same set of circumstances” provision.

False imprisonment is a listed offense requiring registration as a predatory offender whether or not the charge is dismissed or leads to a conviction. Many POR Working Group members raised concerns about

¹² Chaffin, et al. Association for the Treatment of Sexual Abusers Task Force Report on Children with Sexual Behavior Problems. *Child Maltreatment*, 13(2), 2008, pp 199-218

¹³ Caldwell, M. “Quantifying the decline in juvenile sexual recidivism rates.” *Psychology Public Policy and Law*. Vol. 22. No. 4, 2016, pp 414-426

false imprisonment as it is charged in many domestic assault cases (and sometimes in cases such as controlled substance offenses and robberies) – with the person accused of the crime often pleading to a domestic assault, the false imprisonment charged being dismissed, but the person now needs to register as a predatory offender.

At times, this criminal charge is associated with offenses requiring a POR registration for individuals with little or no propensity to commit predatory offenses. As part of this discussion, members discussed distinctions between kidnapping and false imprisonment. Kidnapping, for example, is often associated with more serious crimes of abduction and subsequent violent sexual crimes and murder, particularly with child victims. On the other hand, false imprisonment might be more often associated with non-sexual crimes such as domestic assault or drug offenses and other similar offenses not easily falling in the same category as those more associated with kidnapping.

To address concerns about the broad reach of registration requirements in this context, several possible proposals were discussed.

1. Require an *actual* conviction for false imprisonment to trigger registration, rather than any conviction arising from the same set of circumstances that led to the false imprisonment charge;
2. Eliminate the crime of false imprisonment from required registration if there is no related sex offense.

Supplement 3: Draft language is included that eliminates same-set-of-circumstances for false imprisonment charges. This proposed change requires an actual conviction for false imprisonment to require registration. A large majority of working group members supported these proposals.

(Supplement 3 is omitted from this excerpt.)

3. Limiting convictions that re-start the registration period

Under current Minnesota law, Minn. Stat. § 243.166, subd. 6(c), if an individual on the POR registry is convicted of *any* subsequent criminal offense or revoked from correctional supervision, and that action results in a sentence that includes at least one day of incarceration, the individual's registration period must re-start upon release from incarceration.

A large majority of the members were concerned with this result for somebody who has been in full compliance with registration and is required to restart their registration period due to a minor offense. Therefore, the Working Group considered the list of crimes that would trigger a restart and considered modifications to those offenses.

Members discussed limiting the required restart in a variety of ways:

1. Having only felony convictions trigger a restart;
2. Including felonies as well as certain gross misdemeanors or misdemeanor crimes against the person;
3. Retaining the current framework for restarts but excluding only certain gross misdemeanors and driving offenses; and

4. Defining all criminal statutes that could be included or could be excluded from the registration restart provision.

Limiting the registration restart requirements would avoid situations such as when a registrant is convicted for a minor driving offense or disorderly conduct, and serves a day in jail after registering for the majority of the 10-year registration period from having to re-start that registration period.

Supplement 4: Draft language is included that limits the registration period re-start to felonies and certain crimes against persons. Draft language related to other limitations is not included in the supplement. **(Supplement 4 is omitted from this excerpt.)**

4. Providing a limited registration relief process

Unlike many states, Minnesota does not have any mechanism for individuals to seek relief from the registration requirements, if factors impacting risk level or relevant circumstances change over time. The lack of a process to review requirements is true for everyone subject to registration.

A large majority of working group members believe such a mechanism should be considered for registrants who meet certain criteria (excluding lifetime registrants -- though a small number of members supported such relief for lifetime registrants who meet the proposed criteria). A minority of members did not support such a process for any registrant.

Proposed legislation was drafted for the relief application and screening process and qualifying criteria including how the process would work and what changes in circumstance could potentially qualify a registrant to petition for relief.

A large majority of members generally supported the draft language, but all agreed there were details that needed completing and ancillary issues that needed addressing.

One area that was discussed involved lifetime registration requirements for juvenile adjudications.

In Minnesota, lifetime registration applies to juveniles in the rare situation where they are adjudicated delinquent for murder with an element of 1st degree criminal sexual contact or if they have multiple offenses requiring registration.

Additionally, if a juvenile comes to Minnesota subject to lifetime registration in another state, Minnesota law automatically recognizes that same lifetime registration requirement. That means some juveniles could be subject to lifetime registration in Minnesota even though lifetime registration would not be required for the underlying offense if it had occurred in Minnesota.

The same requirements for lifetime registration that apply to juveniles also apply to adults. Additionally, adults can also be subject to lifetime registration for certain criminal sexual conduct convictions involving victims of a younger age.

Some members of the working group asserted that maintaining longer registration for more individuals provides the broadest level of potential information for law enforcement investigations.

However, other members believed those on the registry who are no longer a threat to public safety and complete necessary steps to demonstrate that change in risk should be provided a path to removing the registration requirement. These members believed such a process would allow more resources to be focused on victim services and individuals who pose a higher risk to the public.

The group discussed a variety of potential structures for a registration relief process, including:

1. Requiring a majority versus a unanimous vote of a review panel;
2. Creating a review panel to provide a deeper review and more consistent treatment of these cases; and
3. Making it a judicial process rather than administrative – though that suggestion raised concerns about consistency from court to court.

Supplement 5: Draft language is included that sets forth a relief from registration process. **(Supplement 5 is omitted from this excerpt.)**

5. Elimination of mandatory minimum for first-time conviction for failure to register

In 2000, the legislature created a mandatory minimum sentence for a first-time conviction for failure to register as a predatory offender. The purpose stated at the time was to enhance law enforcement and prosecutors' ability to enforce the registration requirement. This offense is the only non-victim crime in Minnesota that has an associated mandatory minimum sentence for a first-time conviction.

Since the mandatory minimum was established, convictions for this offense are among the most frequently granted mitigated dispositional departures.

<https://mn.gov/msgc-stat/documents/reports/2017/FRPO.pdf> The POR Working Group discussed the elimination of the mandatory minimum on first-time convictions.¹

The large majority of working group members saw an elimination of the mandatory minimum as a reflection of current practice in many jurisdictions in Minnesota. They cited concerns regarding racial disparities in conviction rates and the need for discretion at sentencing to view the entirety of the circumstances for the failure to register.

Those opposed to eliminating the mandatory minimum asserted it is a strong and effective tool in the hands of prosecutors and law enforcement to maintain compliance with registration requirements.

Members discussed alternatives to eliminating the mandatory minimum such as creating an enhanced penalty that increases with additional convictions, or considering reforms in how individuals are cited for violations while on supervised release.

Supplement 6: Draft language is included that eliminates the mandatory minimum for first failure to register convictions but maintains it for subsequent offenses.

CONSENSUS RECOMMENDATION: ENHANCED RESEARCH AND DATA COLLECTION

Recommendation: The legislature, in collaboration with other critical partners, should develop the necessary infrastructure and processes to gather ongoing data about the number and nature of cases for which law enforcement uses the registry to solve crimes based on information uniquely available in the registry. The legislature should also gather ongoing data about registrants at various points in the criminal justice system and to evaluate that data against defined metrics focused on public safety, recidivism for sex offenses, and rehabilitation. This analysis is necessary to justify the cost of the registry, understand its actual benefits to protecting the public, and better analyze the deleterious effects of the registry.

At the onset of the POR Working Group, requests for data were made to the MN Department of Public Safety (DPS and its Bureau of Criminal Apprehension (BCA)); to the Minnesota Judicial Branch, to the Department of Corrections and to the Minnesota Sentencing Guidelines Commission. Of 29 discrete data requests, 16 were fulfilled and 13 were not due to data being unavailable to fulfill such requests.

Below is a sample of three data requests that were unfulfilled because no state agency collects such data:

1. The number of abduction and/or sexual assault cases reported to law enforcement agencies on a yearly basis, and the number of those cases that were investigated using data uniquely available on the registry and unavailable by any other means (friends, family, social media, community connections, eyewitnesses, probation officers, criminal history, and court records);
2. The number of registrants in the past twenty years whose registration requirements re-started for an additional ten years because they were convicted of a non-registerable offense (broken down by offense level); and
3. The number of registrants that came onto the registry as juveniles since 1991.

This data, for example, would help the State of Minnesota understand the efficacy of the registry and the reasons for lengthy registration periods.

Throughout the meetings of the POR Working Group and its subgroups, there was a common theme of the need to examine data associated with registrants at various points in the criminal justice process, and to evaluate those data against defined metrics focused on law enforcement usefulness, public safety benefit, and rehabilitation outcomes. However, since the POR registry was designed to track and locate individuals to assist law enforcement in their duties – and not for the purposes of producing statistics, studying recidivism, or as a criminal history repository – the data available to the Working Group was limited.

Minnesota law limits the data that is collected from those who are required to register as predatory offenders. Those limitations meant the Working Group could access some summary data from entities like the BCA, the Minnesota Judicial Branch, and the Minnesota Sentencing Guidelines Commission, but did not have access to the granular level of detail needed for a comprehensive assessment of the registry, its impact, and its effectiveness.

Working group members identified several areas of analysis that would benefit from more detailed data, including:

1. How and why law enforcement uses the registry;
2. Frequency and circumstances in which the registry aided the investigative process and outcomes;
3. Impact on youth currently subject to registration periods for juvenile adjudications; and
4. Any data available related to collateral consequences.

As the legislature considers modifications to the predatory offender registration statutory framework, it should require the development of the infrastructure and processes necessary to gather this critical data as part of the predatory offender registration and tracking system. Any proposal of this nature must include a strong partnership and robust discussion with the Minnesota Department of Corrections, the Minnesota Judicial Branch, the Minnesota Department of Public Safety (specifically the Minnesota Bureau of Criminal Apprehension), and other interested partners to determine how such data might be collected, utilized, tracked, and protected.

FURTHER STUDY NEEDED: ISSUES DISCUSSED WITHOUT RECOMMENDATION

1. Provide Assistance to Registrants with Unique Challenges to Compliance

The POR Working Group discussed challenges related to individuals failing to register due to homelessness or institutionalization due to mental or physical health care needs. Specific proposals were not discussed, however there was significant support that this area needs further attention.

Options for those registered as homeless were noted as areas that could receive attention particularly regarding technology innovations that could shift the requirement of appearing in person during specific times.

Issues for those who are either physically or mentally unable to handle the registration or information update requirements were also noted. These challenges often occur for those admitted to a hospital or care setting where they are not able to submit an advance notification of a change of residence, as required by law.

Additionally, those who are caretakers do not currently have a defined authority to complete changes of information on behalf of those registrants they are serving.

2. Replace the term “Predatory Offender” in the Registry Name to More Accurately Reflect Registry Composition

This issue was raised as to whether “Predatory Offender” Registry is an accurate description of who is on the registry. For some registrants, their crime has no predatory element to it and to refer to them as predators is not accurate. This issue had very little opposition. Most members acknowledged the term “predatory offender” is problematic, and worthy of reconsideration. One option that was considered was re-naming the registry.

However, members also acknowledged this issue could distract from other more relevant or substantive concerns. For that reason, the group agreed to table the discussion and forego any specific

recommendations at this time. There is, however, continued interest from a majority of working group members in pursuing a name change.

3. Need for Disparity Analysis

The working group concluded there should be a disparity analysis related to how offenders of varying races are impacted by the registration statute and failure to register convictions. See Appendix E, *Comparisons Based on Race*.

OTHER REGISTRATION ISSUES DISCUSSED

The following related areas received little coverage in the discussion but were deemed worthy of further study and focus: Employment and Residency Restrictions and other collateral consequences of registration.

1. Employment registration and other collateral consequences

The POR registry was originally created as a tool for law enforcement, but over the years more people are able to access registry data. The nexus between employment restrictions and registration status has been questioned. While little time was spent on this issue, the nexus between a total bar to employment in the horse racing industry in any capacity was noted as an example of the far-reaching consequences of employment restrictions.

2. Residency requirements imposed by local ordinances

These are restrictions imposed by local ordinances that bar registrants from living near designated locations. Without consistency or recognized standards these ordinances can, in practice, allow a local government unit to either bar entirely or severely restrict the ability of a designated registrant to find housing in those communities. Research on this subject has pointed out the ineffectiveness of such policies related to public safety both directly related to Minnesota research¹⁴ and more generally.¹⁵

In most cases, the ordinances apply to those registrants designated as Level 3 for community notification purposes (i.e. those deemed relatively higher risk for re-offense and/or in need of a higher level of supervision, monitoring, or resources). But these ordinances can be and have been applied to other groups of registrants deemed lower risk.

Proponents of these ordinances assert that a city or county should have the authority to decide what is a public safety issue for them, and how they might use their police authority to protect their communities. Those concerns are unique to each individual community or political subdivision and lead to the inconsistencies noted above. See Appendix D, *Residency Restrictions in Minnesota*.

¹⁴ "Residential Proximity & Sex Offense Recidivism in Minnesota." Minnesota Department of Corrections, April 2007.

¹⁵ "Use of Residency Restriction Laws for Individuals Convicted of Sex Offenses." Robina Institute, June 2020.

Implications with the federal sex offender registration and notification act (SORNA)

The Sex Offender Registration and Notification Act (SORNA) was passed in 2006 and sets a comprehensive set of federal standards for sex offender registration and community notification throughout the states. In the fifteen years since enactment of SORNA, 32 states have not implemented the federal standards despite a 10% Byrne Grant penalty on the state, not local, allocations of that money. For Minnesota in FY2021 the penalty would have been \$283,374.80, affecting FY2022 funding. Minnesota, at present continues to apply for and receive funding under an exception to the penalty.

As of a 2016 Substantial implementation Review (See Appendix F) by the United States Department of Justice, the following determinations were made:

- Minnesota is compliant in 3 of the 15 standards
- Minnesota is not compliant in 6 of the 15 standards
- Minnesota does not substantially disserve the purposes of the SORNA Requirements in 5 of the 15 standards

Given these determinations, the Department of Justice found that the State of Minnesota has not substantially implemented SORNA. The state is currently operating under an exception to maintain the grant funding at its present level. Some of the language in the addendum would either bring Minnesota closer to or further from compliance.

The most significant areas in which Minnesota (and most other states) has elected to reject the SORNA requirements are retention of the private nature of most registration information and the risk-based level system under current Minnesota law.¹⁶ Regardless of adoption of all other SORNA recommendations, Minnesota's decision to adopt its own risk-based level system and non-public registry will continue to not be in substantial compliance with SORNA.

The consensus understanding throughout the Working Group discussion was that Minnesota's registry is a private investigatory tool for the use of law enforcement and other designated entities.

CONCLUSION

Starting with several recommendations from the Criminal Sexual Conduct Statutory Reform Working Group (CSC Working Group) the POR Working Group thoughtfully considered a number of areas of concern.

There was broad agreement that the original purpose of the registry was an investigation tool for law enforcement to use with sex offenders. It continues to be supported as such. However, some members expressed concern that in the 31 years since its inception, other uses of the registry have become apparent, in both intentional and unintentional ways.

¹⁶ See also "Paying the Piper: The Cost of Compliance with the Federal Sex Offender Registration and Notification Act," 59 New York Law School L. Rev. 4, 2015, p 22

"Sex Offender Registration and Notification Policies: Summary and Assessment of Research on Claimed Impacts to Registered Offenders." U.S. Office of Justice Programs, 2020. (Appendix J)

The POR Working Group brought together a wide range of expertise and viewpoints to discuss recommendations on an issue that has tremendous impacts on the lives of Minnesotans, and spans some of the most difficult and sensitive topics dealt with in the criminal justice system. Discussions were thoughtful and respectful, with a majority of members agreeing to the proposals, and a minority did not.

The working group requests that the Legislature consider each of the proposals in earnest and hold hearings on the proposed reform areas. During such hearings, the legislators will then be able to hear directly from those individuals that have the most relevant information bearing on how Minnesota continues to study, implement, and reform the 31-year-old registry.

SUPPLEMENT 1 MINORITY OPINION OF LAW ENFORCEMENT

Minority opinion of law enforcement professionals represented by the Minnesota Sheriff's Association and Minnesota Chiefs of Police Association

The Predatory Offender Statutory Framework Working Group was charged with a number of tasks, among which was an evaluation of “the effectiveness of the POR system in achieving its stated purpose.” To law enforcement professionals who access this system daily, it is primarily a tool to be used in those critical moments when an investigation into a sexual assault or other predatory offense indicates that this particular offense has been committed by an unknown suspect.

All sexual assaults or predatory offenses are high priority cases for law enforcement and represent a public safety risk. However, these outliers with an unknown suspect represent a different level of threat to public safety with law enforcement being handicapped in our ability to remove the public safety threat by virtue of the anonymity of the suspect. The Predatory Offender Registration (POR) database was created as a tool for these rare cases, allowing law enforcement access to a pool of known individuals who had shown the ability and proclivity for committing predatory offenses.

The information contained in the POR gives law enforcement the ability to compare particular details of the offense being investigated against the known details collected from those in the database to provide a starting point for investigators. No other database available to law enforcement captures the level of accurate detailed information on individuals who have shown by their previous behavior choices that they possess the capability to commit a predatory offense.

The role played by the POR in the investigation of the cases of Katie Poirier and Dru Sjodin provide anecdotal support for the power of the POR database to provide the critical link law enforcement needs to capture and hold accountable extremely dangerous individuals. The importance of solving these cases and the value of the POR to these investigations is the reason law enforcement regards changes that weaken the POR with great hesitancy.

The unpredictability of human behavior serves as a barrier to the reliability of assessment tools predicting the future actions of a person on the POR; therefore, law enforcement must continue to maintain a database that serves as a robust investigative tool to help solve predatory violence cases for victims and their families. Below are details regarding the reasons law enforcement would oppose the proposed changes to the POR.

[Eliminate or limit registration requirements for adjudicated juveniles](#)

We believe there is little debate that juveniles are something more than just small adults. Research (and likely our own personal recollection) tells us that juveniles think differently than adults and act differently than adults. This is one of the beliefs that forms the foundation of a unique criminal justice system to serve the needs of juveniles. During Working Group discussions on this topic, removing or limiting registration of juveniles from the POR was advanced based upon the idea that juveniles have a low recidivism rate and the idea that most juveniles offend against individuals with whom they already have a relationship.

A database is only as good as the data included and a low recidivism rate still indicates some recidivism is taking place. Eliminating all juveniles from the POR would fail to capture those juveniles who will recidivate. Data presented in the Working Group demonstrated evidence that a typical juvenile predatory offender will offend against someone they know; therefore their inclusion on the registry

would be of less value as any subsequent recidivist behavior would be against a person who could identify the juvenile suspect. The question this presumption begs is why do juveniles mostly offend against those with whom they already have a relationship? It is law enforcement's belief this is primarily driven by access. The individuals with whom a juvenile interacts is typically defined by a parent or guardian and it is typical for juveniles to associate with each other based upon social groupings. Juveniles interact with each other in friend groups, in school settings, and in organized activities. For the most part, juvenile interactions with each other are controlled by some level of organization or parental involvement that increases the likelihood the juveniles or those responsible for their care know the identity of each other. It would be very unusual for a juvenile, especially a pre-teen to early-teen juvenile, to be allowed uncontrolled access to strangers.

That paradigm changes as the juvenile grows older and matures into adulthood. In late-teen years and early adulthood, the opportunities for juveniles or young adults to move about society freely and interact with strangers increases. The difficulty law enforcement sees with removing or limiting the requirement for juvenile offenders to register with the POR for predatory offenses is the difficulty in determining which juveniles will continue their predatory behavior into late-teen or adult years when they have increased access to the public at large. Indeed, the question anyone considering this change ought to be able to answer to themselves and the public is how will the criminal justice system determine which juvenile predatory offenders represent a continuing risk to the public as they age and which do not? A system that does not properly address this question and make these determinations places the public at risk by removing from the POR the information law enforcement will need to find and stop a future predatory offender.

[Eliminate/modify the restart provisions](#)

Minnesota law currently places an expectation upon POR registrants that they will remain law abiding, or at least refrain from a criminal offense for which they are incarcerated, for a period of 10 years prior to being relieved of their registration obligations. Discussions of anecdotal instances concerning individuals who spent decades on the POR were heard during Working Group meetings. We believe it is worth noting that the primary way in which a person finds themselves on the POR for more than one 10-year period is through continued criminal behavior or non-compliance. Each day, millions of Minnesotans of all demographics find themselves able to conduct their lives in a law abiding fashion. Remaining law abiding ought to be seen as the expected norm for everyone, including those on the POR. Certainly, there are individuals among us whose particular circumstances create stumbling blocks to attaining this norm. For those individuals, our society ought to and does make available compassionate programs and opportunities for assistance in overcoming these stumbling blocks. Even so, the expectation to remain law abiding ought to remain. This idea is the basis of the unwritten social contract we all have in common.

Individuals are placed in the POR system due to individual behavior choices each person consciously carried out. On principle, individuals in the POR ought to be held to the expectation to remain law abiding to demonstrate they no longer represent a public safety risk. The alternative is to endorse a watered-down version of the norm, expecting compliance with only a subset of criminal laws and applying a less-than standard to these registrants.

Of all people who ought to be expected to remain law abiding, predatory offenders can arguable be grouped with those who are most on notice of the importance of this expectation. During their

interaction with the criminal justice system, POR registrants would have been advised on multiple occasions of the importance of remaining law abiding. It is possible a police officer or detention officer advised the registrant to remain law abiding, it is probable that a judge or defense counsel advised the registrant to remain law abiding, and it is virtually certain that a probation officer counselled the registrant to remain law abiding. By the time a person becomes a POR registrant, they have been clearly informed of the expectation that they will remain law abiding or face additional consequences.

In the Working Group discussions, an assertion was made that research indicates the requirement to register or continue to register with the POR does not carry a deterrent effect for predatory offenders. Individuals who, in spite of multiple warnings and knowing criminal behavior will result in continued registration, make the choice to continue breaking the social contract through the commission of criminal acts should, most of all, be the people included in a predatory offender database. These individuals have clearly demonstrated that they will continue to make the choice to fulfill their immediate desires and disregard the law despite knowing such a decision is contrary to their own interest and result in continued consequence. The re-start provision is already limited to only those offenses for which a person receives at least one day of incarceration. To further limit this requirement will serve to remove from the database individuals who have demonstrated a reduced ability to make good decisions and participate in furthering public safety.

[Provide an avenue of relief from registration](#)

Law enforcement is interested in having the right people in the POR. Indeed, if there were a way for us to see into the future with clairvoyance and know who would or would not commit subsequent predatory offenses, the POR database would be a much smaller dataset. Unfortunately, we have no way of knowing for certain who will and who will not offend in the future.

During Working Group discussions, much time was dedicated to considering predictive tools used by psychologists and others in the research and rehabilitation field. Research suggests these tools have the ability to predict future human behavior within a remarkable range of accuracy. Even so, there exists the risk that the tool is wrong or that the person being evaluated is able to effectively defeat the tool's ability to detect indications of dangerous behavior. Further, when discussing recidivism rates, it should be noted that even when these tools indicate a low recidivism rate, this means that there are still additional crimes being committed by the individuals in the population being examined.

Currently, our statute deals with this issue by casting a wide net across all individuals who commit predatory offenses, requiring them to register and remain compliant for at least 10 years. Contemplated changes to this wide net approach ought to be weighed against the reality that any system of evaluation and relief will be an imperfect one. The legislature must recognize any change that removes individuals from the POR has to be made knowing a percentage, however small, of the individuals excluded from the POR by these changes could commit additional predatory offenses after having been removed from the POR, thereby hampering law enforcement efforts to find and capture them. With this in mind, law enforcement urges caution in the implementation of a relief process for predatory offenders. Perhaps the public policy discussion and decisions should be centered upon the acceptable level of risk we as a society are willing to yield as a means of guiding proposed legislative changes. The lowest risk approach to the issue is no relief process.

Under current law, those on the POR will have their registration requirements removed automatically after 10 years of remaining compliant and law abiding. Any relief process considered should have in place rules and procedures which provide relief only to those who clearly represent the lowest risk of re-offending. Those advocating for a relief process have proposed a panel of experts to evaluate relief petitions. It is our view that, should such a panel be created, the standard for relief ought to be a unanimous vote. A unanimous vote would ensure that only those who represent the lowest risk to re-offend would be granted relief.

Elimination of Mandatory Minimum for First-time Conviction for Failure to Register

From a compliance perspective, our current requirements, and consequences for failure to register are working. During Working Group discussions, the group was advised that the current compliance rate for predatory offenders on the POR is at about 90%. This is a remarkable success rate. The POR, like any other data tool, is only as good as the accuracy of the data it contains. Working Group discussions acknowledged that it would be difficult to determine how the mandatory minimum requirement for failure to register offenses contributes to this remarkable compliance rate. Law enforcement would again urge caution in making changes, absent data, to a system that is working.

Enhanced research and data collection

As noted in the report, the inability to obtain comprehensive data regarding how the POR performed and affected the lives of those included on it was a primary frustration of the Working Group. The importance of this tool and its value to law enforcement requires that any changes made to the POR ought to be based upon empirical data and professional analysis rather than opinions and emotion. Law enforcement is supportive of efforts to better collect and understand the data surrounding the POR. Law enforcement believes it is important to note, in evaluating any data gathered from this analysis of the POR that the number of cases in which the POR played an important role in advancing the investigation will likely be small given the nature of sexual assault crimes and predatory offenses. Even so, the importance of this tool to the victims and families is difficult to overstate, as in these rare cases the POR could well be the key to bringing justice these victims and families deserve.

Respectfully submitted by:

Sheriff Troy Heck

Benton County Sheriff's Office

Minnesota Sheriff's Association

Chief Mike Tusken

Duluth Police Department

Minnesota Chiefs of Police Association

SUPPLEMENT 6
PROPOSED STATUTORY LANGUAGE:
ELIMINATE MANDATORY MINIMUM FOR FIRST-TIME CONVICTION

Minnesota Statutes 2021, section 243.166, subdivision 5, is amended to read:

Subd. 5. **Criminal penalty.** (a) A person required to register under this section who was given notice, knows, or reasonably should know of the duty to register and who:

(1) knowingly commits an act or fails to fulfill a requirement that violates any provision of this section; or

(2) intentionally provides false information to a corrections agent, law enforcement authority, or the bureau is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

~~(b) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.~~

~~(c)~~ (b) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section or a similar statute of another state or the United States, shall be committed to the custody of the commissioner of corrections for not less than ~~two years~~ a year and a day, nor more than five years.

~~(d)~~ (c) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

~~(e)~~ (d) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.



WHO IS REQUIRED TO REGISTER?

Pursuant to M.S. § 243.166, Subd. 1b, any person charged with, petitioned for, or Court Martialed for a violation of, or attempt to violate, or aiding, abetting or conspiracy to commit any of the following crimes and convicted of, or adjudicated delinquent for that offense **or** for an offense arising out of the same set of circumstances is required to register.

****Same set of circumstance applies to federal and out of state offenders who commit their offense on or after 8/1/2014, prior to this date registration is based on conviction only****

LIST #1

| | | |
|---|-------------------------------------|--|
| First Degree Murder | 609.185 | Clause 2 only |
| Kidnapping | 609.25 | |
| Criminal Sexual Conduct in the First Degree | 609.342 | |
| Criminal Sexual Conduct in the Second Degree | 609.343 | |
| Criminal Sexual Conduct in the Third Degree | 609.344 | |
| Criminal Sexual Conduct in the Fourth Degree | 609.345 | |
| Criminal Sexual Conduct in the Fifth Degree | 609.3451 | Subd. 3 only |
| Criminal Sexual Predatory Conduct | 609.3453 | |
| Indecent Exposure | 617.23 | Subd. 3 only |
| False Imprisonment | 609.255 | Subd. 2 only |
| Solicitation, inducement, or promotion of the prostitution of a minor or engaging in the sex trafficking of a minor | 609.322 | Subd. 1(a) (1) only (committed before 8/1/14) Subd. 1(a) (1), (2), (4) (committed on or after 8/1/14) |
| Prostitution offense involving a minor under the age of 14 years | 609.324 | Subd. 1 (committed before 8/1/14) Subd. 1(a) (1), (2), (3) (committed on or after 8/1/14) |
| Soliciting a minor to engage in sexual conduct | 609.352 | Subd. 2 or Subd. 2a (1) |
| Using a minor in a sexual performance | 617.246 | |
| Possession of pictorial representations <u>of minors</u> | 617.247 | |
| Predatory Crime <u>and</u> sentenced as a Patterned Sex Offender | 609.108 | |
| Criminal Abuse (committed on or after 8/1/2011 only) | 609.2325 | Subd. 1(b) only |
| Surreptitious Intrusion | 609.746 | Subd. 1(f) (committed on or after 8/1/19) |
| Comparable violations of the Uniform Code of Military Justice | | |
| Comparable Federal Offenses | | |
| Comparable Offenses from other states | | |
| Offenders from other states who enter Minnesota to work or attend school | | |
| Civil Commitments | 253B.185 or 526.10 | |
| | (or a similar law in another state) | |
| Not guilty by reason of mental illness + commitment | 253B.18 | |
| | (or a similar law in another state) | |
| Guilty, but mentally ill + commitment | 253B.18 | |
| | (or a similar law in another state) | |



WHO IS REQUIRED TO REGISTER UNDER THE CRIMES AGAINST THE PERSON STATUTE?

Pursuant to M.S. § 243.167, anyone previously *convicted of or adjudicated delinquent for an offense listed on List #1*, but who was not required to register at the time of conviction or release from imprisonment because the registration law did not apply to them at that time, is required to register if they commit a “Crime Against the Person” on or after July 1, 2000, and are *convicted of an offense listed below (List #2)*. This section also applies to offenders who were previously registered, but whose registration period has expired, if the offender commits a “Crime Against the Person” after July 1, 2000.

| | | | | |
|---|---|----------------------------|---|----------------------------|
| Conviction From List #1 | + | Conviction From List #2 | = | Required to Register |
| -Or- | | | | |
| Finished Initial Registration Period | + | Conviction From List #2 | = | Required to Register Again |

LIST #2

| | | |
|--|----------|-------------------|
| Unlawful Possession of a Firearm | 609.165 | |
| Murder in the First Degree | 609.185 | |
| Murder in the Second Degree | 609.19 | |
| Murder in the Third Degree | 609.195 | |
| Manslaughter in the First Degree | 609.20 | |
| Manslaughter in the Second Degree | 609.205 | |
| Assault in the First Degree | 609.221 | |
| Assault in the Second Degree | 609.222 | |
| Assault in the Third Degree | 609.223 | |
| Assault in the Fourth Degree (committed on or after 8/1/2005 only) | 609.2231 | |
| Assault in the Fifth Degree | 609.224 | Subd. 2 or 4 only |
| Domestic Assault | 609.2242 | Subd. 2 or 4 only |
| Domestic Assault by Strangulation (committed on or after 8/1/2005 only) | 609.2247 | |
| Use of Drugs to Injure or Facilitate a Crime | 609.235 | |
| Aggravated Robbery | 609.245 | Subd. 1 only |
| Kidnapping | 609.25 | |
| False Imprisonment | 609.255 | |
| Criminal Sexual Conduct in the Fifth Degree | 609.3451 | Subd. 2 only |
| Tampering With a Witness | 609.498 | Subd. 1 only |
| Burglary in the First Degree | 609.582 | Subd. 1 only |
| Indecent Exposure | 617.23 | Subd. 2 only |
| Crime Committed for Benefit of a Gang | 609.229 | Felony level only |
| Malicious Punishment of a Child | 609.377 | Felony level only |
| Harassment; Stalking | 609.749 | Felony level only |
| Unlawful possession of a pistol or semiautomatic military-style assault weapon | 624.713 | Felony level only |

Appendix C

(Retrieved from the Minnesota Department of Corrections 1/24/22.)

October 19, 2021 Data

Those currently incarcerated in the DOC with a Failure to Register conviction commit to prison in their history.

Assigned Level, Pending Level, Level not applicable due to registration based solely on juvenile adjudication (NA Juvenile), or Registration Not Applicable (RNA).

| N = 151 cases | | | N = 114 individuals | |
|--------------------|-----------|--------------|---------------------|--------------|
| Level 1 | 45 | | 37 | |
| Level 2 | 44 | | 31 | |
| Level 3 | 18 | | 13 | |
| Pending Level | 10 | | 7 | |
| NA Juvenile | 33 | 21.9% | 25 | 21.9% |
| RNA | 1 | | 1 | |

Corrections Operations Management System (COMS) – Intake Tracking Module

Minnesota Department of Corrections

Residency Restriction Ordinances in Minnesota

These are known Minnesota cities (and two counties) that have an ordinance that restricts to some degree where those subject to registration under Minnesota Statutes 243.166 or 243.167 may live in proximity to identified locations. Most but not all of these ordinances are based on the registration status of the targeted person. Some (47) apply to only Level 3* and some apply to both Level 3 and those with a minor victim regardless of risk level including non-risk level probation cases and those not even subject to registration. Not all ordinances are considered enforceable either in their entirety or in selective areas by local jurisdictions so they must be reviewed on a case-by-case basis for actual applicability in any specific residential decision. The variety of restrictions and extent of restrictions is inconsistent throughout these ordinances so caution should be noted when making decisions about applicability for any specific ordinance or registrant. Ordinances may have been changed since last reviewed. There is no comprehensive way to search these local ordinances so individual contact is sometimes necessary to get the most up-to-date information. Use of this list alone to deny a residential choice by anyone is inappropriate.

1. Ada*(Norman Co)
2. Albertville (Wright Co)
3. Andover*(Anoka Co)
4. Anoka*(Anoka Co)
5. Apple Valley (Dakota Co) (Fed Court Challenge pending)
6. Askov (Pine Co)
7. Audubon (Becker Co)
8. Benson (Swift Co)
9. Battle Lake (Otter Tail Co)
10. Big Lake* (Sherburne Co)
11. Birchwood*(Washington Co)
12. Blomkest (Kandiyohi Co)
13. Brainerd* -only concentration prohibited – 1000’ (Crow Wing Co)
14. Brooklyn Center* (Hennepin Co)
15. Chisago City (Chisago Co)
16. Chisago County*
17. Clear Lake*(Sherburne Co)
18. Cleveland* (Le Sueur Co)
19. Cloquet* (Carlton Co) – concentration and proximity
20. Cohasset (Itasca Co)
21. Columbia Heights*(Anoka Co)
22. Coon Rapids*(Anoka Co)
23. Corcoran (Hennepin Co)
24. Cosmos* (Meeker Co)
25. Cuyuna (Crow Wing Co)
26. Dayton (Hennepin Co) – *(void and invalid by 12/11/2018 4th District Judgement)*
27. Deephaven (Hennepin Co)
28. Detroit Lakes* (Becker Co)
29. Duluth*- with exceptions (St. Louis Co)
30. Eagle Lake (Blue Earth Co) – transitional housing restriction
31. Elizabeth (Otter Tail Co.)
32. Elysian* (Le Sueur and Waseca Co)

Residency Restriction Ordinances in Minnesota

33. Excelsior (Hennepin Co)
34. Farmington (Dakota Co)
35. Fergus Falls*(Otter Tail Co)
36. Finlayson (Pine Co)
37. Grand Rapids*(Itasca Co)
38. Grasston (Kanabec Co)
39. Greenwood (Hennepin Co)
40. Hastings* (Dakota Co)
41. Hermantown (St. Louis Co)
42. Hillman (Morrison Co)
43. Hilltop *(Anoka Co)
44. Independence* (Hennepin Co)
45. Inver Grove Heights* (Dakota Co)
46. Kilkenny (Le Sueur Co)
47. Lake Crystal* (all supervised individuals in state supported housing) (Blue Earth Co)
48. Lauderdale* (Ramsey Co.)
49. Le Center* (Le Sueur Co) (all registrants in housing)
50. Le Sueur* (Le Sueur Co)
51. Le Sueur County*
52. Lindstrom (Chisago Co)
53. Linwood Township (Anoka Co)
54. Little Canada* (Ramsey Co.) (amended to include only Level 3)
55. Lonsdale (Rice Co)
56. Mahtomedi * (Washington Co)
57. Mankato (all supervised individuals in state supported housing) (Blue Earth Co)
58. Maple Grove* (Hennepin Co)
59. Maple Plain (Hennepin Co)
60. Mapleton (Blue Earth Co)
61. Mendota Heights (Dakota Co)
62. Minnesota Lake* (Faribault and Blue Earth Co)
63. Moose Lake (Carlton Co)
64. Morristown (all supervised Level 2 or 3 individuals in supported housing) (Rice Co)
65. Mounds View* (Ramsey Co.)
66. New Prague* (Scott and Le Sueur Co)
67. Newport*(Washington Co)
68. North Branch* (North Branch)
69. North Mankato (all supervised individuals in state supported housing) (Nicollet and Blue Earth Co)
70. Orono* (Hennepin Co)
71. Otsego (2009) (Wright Co)
72. Pelican Rapids* (Otter Tail Co)
73. Pine Island* (Goodhue and Olmsted Co)
74. Proctor* (only with minor victims) (St. Louis Co)
75. Ramsey* (Anoka Co)
76. Rochester (all supervised individuals in state supported housing) – with exceptions (Olmsted Co)
77. Rosemount* (Dakota Co)
78. Rush City (Chisago Co)

Residency Restriction Ordinances in Minnesota

79. Sandstone (Pine Co)
80. Shorewood (Hennepin Co)
81. St. Francis* (Anoka Co)
82. St. Michael* (Wright Co)
83. South St. Paul (Dakota Co)
84. Taylors Falls (Chisago Co)
85. Tonka Bay (Hennepin Co)
86. Vadnais Heights* (Ramsey Co)
87. Victoria (Carver Co)
88. Wabasha (Wabasha Co)
89. Watertown* (Carver Co)
90. West St. Paul (Dakota Co) (Amended in response to Jan 25, 2018 preliminary federal court injunction)
91. Willmar*(Kandiyohi Co)
92. Wyoming (Chisago Co)

Comparisons based on race

| Race | Minnesota Population ¹ | Registrations ² | Prison Population ³ | Failure to Register Convictions ⁴ |
|--------------------|-----------------------------------|----------------------------|--------------------------------|--|
| White | 83.2% | 69.2% | 51.8% | 57.2% includes Hispanic ethnicity |
| Black | 8.5% | 21.5% | 36.6% | 31.8% |
| Asian/Pac Island* | 6.5% | 2.7% | 2.7% | 1.9% |
| Native Amer/Alaska | 2.8% | 6.2% | 8.6% | 9.0% |
| Other Race | 5.6% | | | |

* includes 0.2% Native Hawaiian and Other Pacific Islander

¹ United States Census Bureau – Minnesota 2020 Census – racial groups alone or in combinations (results in more than 100%)

² Bureau of Criminal Apprehension Presentation to POR Working Group – Aug 3, 2021 data

³ Minnesota Department of Corrections Adult Prison Population Summary – July 01, 2021

⁴ Minnesota Sentencing Guidelines Commission Failure to Register as Predatory Offender: Sentenced 2015-2019 report to POR Working Group – Oct 27, 2021

As of January 21, 2022 Minnesota Bureau of Criminal Apprehension

17,684 males

405 females

| | |
|-----------------------------|--|
| White | 12,500 |
| Black | 3,902 |
| Am Indian or Alaskan Native | 1,115 |
| Asian or Pacific Islander | 477 |
| Unknown | 95 |
| 14-15 years old | 10 |
| 16-17 | 40 |
| 90-above | 6 |
| 80-89 | 104 |
| 70-79 | 474 |
| 60-69 | 1,594 |
| 50-59 | 3,194 |
| 40-49 | 4,564 |
| 30-39 | 5,249 |
| 21-30 | 2,619 |
| 18-20 | 235 |
| Risk levels | 8,438 |
| Not Assigned | 9,651 (includes those subject to risk level assign but not yet assigned) |
| Total | 18,089 |

MINNESOTA DEPARTMENT OF CORRECTIONS
ADULT PRISON POPULATION SUMMARY

AS OF 07/01/2021 *(unless noted)*



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Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, MN 55108-5219
(651) 361-7200
TTY (800) 627-3529

July 1, 2021

Section 1. Adult Prison Population Summary as of 07/01/2021

POPULATION:

| | | |
|---------|------------|-------|
| Males | 6,948 | 94.3% |
| Females | <u>421</u> | 5.7% |
| Total | 7,369 | |

OFFENSES (top six total 5,668):

| | | |
|-------------------------|-------|-------|
| Criminal Sexual Conduct | 1,489 | 20.2% |
| Homicide | 1,419 | 19.3% |
| Drugs | 1,202 | 16.3% |
| Assault | 606 | 8.2% |
| Weapons | 604 | 8.2% |
| Robbery | 348 | 4.7% |

Note: Percentages are based on the total population of 7,369.

TYPE OF OFFENSES:

| | | |
|-----------|--------------|-------|
| Person | 4,328 | 58.7% |
| Drugs | 1,202 | 16.3% |
| Weapons | 604 | 8.2% |
| Property | 527 | 7.2% |
| Other | 356 | 4.8% |
| DWI | 330 | 4.5% |
| PSI Holds | <u>22</u> | 0.3% |
| Total | 7,369 | |

NUMBER OF LIFERS: 608 (634 including Non-Minnesota)

Note: Of the 608 Minnesota lifers:

- 149 have a sentence of life without parole; and
- 95 were not incarcerated in a Minnesota prison.

AVERAGE AGE (in years): 38.9

CURRENT INMATES AGE 50 OR OLDER: 1,288

CURRENT INMATES UNDER AGE 18: 6

AVERAGE POPULATION FY2021: 7,663

INMATES CERTIFIED AS ADULTS AT SENTENCING: 137

MINNCOR INDUSTRY – INMATES EMPLOYED: 1,376

Section 1. Adult Prison Population Summary as of 07/01/2021

RACE:

| | | |
|-----------------|--------------|-------|
| White | 3,818 | 51.8% |
| Black | 2,694 | 36.6% |
| American Indian | 635 | 8.6% |
| Asian | 198 | 2.7% |
| Unknown/Other | 24 | 0.3% |
| Total | <u>7,369</u> | |

Note: 404 (5.5%) of the above are of Hispanic ethnicity.

EDUCATIONAL LEVEL:

| | | |
|----------------------|--------------|-------|
| Grades 0 – 8 | 195 | 2.6% |
| Grades 9 – 11 | 1,643 | 22.3% |
| High School Graduate | 2,180 | 29.6% |
| GED | 1,842 | 25.0% |
| College and Up | 1,384 | 18.8% |
| Other/unknown | 125 | 1.7% |
| Total | <u>7,369</u> | |

MARITAL STATUS:

| | | |
|--------------------|--------------|-------|
| Single | 5,237 | 71.1% |
| Married | 886 | 12.0% |
| Divorced/Separated | 844 | 11.5% |
| Other/Unknown | 402 | 5.5% |
| Total | <u>7,369</u> | |

RELIGION:

| | | |
|---------------------------|--------------|-------|
| Unknown/No Preference | 2,358 | 32.0% |
| Other Christian | 2,090 | 28.4% |
| Other Religions | 859 | 11.7% |
| Catholic | 638 | 8.7% |
| Muslim | 456 | 6.2% |
| Native American Religions | 373 | 5.1% |
| Lutheran | 366 | 5.0% |
| Baptist | 229 | 3.1% |
| Total | <u>7,369</u> | |

COUNTY OF COMMITMENT (top six total 3,962):

| | | |
|-----------|-------|-------|
| Hennepin | 1,906 | 25.9% |
| Ramsey | 814 | 11.0% |
| St. Louis | 344 | 4.7% |
| Dakota | 336 | 4.6% |
| Stearns | 290 | 3.9% |
| Anoka | 272 | 3.7% |

Note: Percentages are based on total population of 7,369.

Section 1. Adult Prison Population Summary as of 07/01/2021

POPULATION BY FACILITY/LOCATION:

| | | |
|--|--------------|-------|
| Faribault | 1,640 | 22.3% |
| Stillwater | 1,301 | 17.7% |
| Lino Lakes | 969 | 13.1% |
| Rush City | 865 | 11.7% |
| Moose Lake | 801 | 10.9% |
| St. Cloud | 610 | 8.3% |
| Shakopee | 398 | 5.4% |
| Oak Park Heights | 345 | 4.7% |
| Willow River | 118 | 1.6% |
| Togo | 72 | 1.0% |
| Red Wing | 29 | 0.4% |
| Work Release | 177 | 2.4% |
| County Jail/Federal Prison (Contract) | 0 | 0.0% |
| Institution Community Work Crews | 27 | 0.4% |
| Non-DOC Correctional Facility (Short Term) | 17 | 0.2% |
| Total | <u>7,369</u> | |

Section 2. Admissions and Releases for FY2021

ADMISSIONS (FY2021):

| | | |
|-------------------------------------|------------|-------|
| New Commitments | 2,285 | 60.9% |
| Release Return Without New Sentence | 1,232 | 32.8% |
| Release Return With New Sentence | <u>235</u> | 6.3% |
| Total | 3,752 | |

Note: The above includes admissions of all offenders committed to the commissioner of corrections. Because offenders can be admitted more than once in a given year, the above measures the total number of prison admissions, not the total number of individual offenders admitted to prison.

| COMMITMENTS | <u>FY2020</u> | <u>FY2021</u> | <i>Change</i> |
|--------------------|---------------|---------------|---------------|
| July-December | 2,133 | 1,213 | -43.1% |
| January-June | <u>1,510</u> | <u>1,307</u> | -13.4% |
| Total | 3,643 | 2,520 | -30.8% |

Note: Includes new commitments and release return with new sentence by fiscal year.

RELEASES (FY2021):

| | | |
|-----------------------------------|-----------|-------|
| Supervised Release/Parole | 3,683 | 73.6% |
| Community Programs | 731 | 14.6% |
| Discharge | 285 | 5.7% |
| Work Release - Covid | 154 | 3.1% |
| Cond Med Rel/Supv Release - Covid | 79 | 1.6% |
| Other | <u>73</u> | 1.5% |
| Total | 5,005 | |

Note: The above includes releases from prison as well as releases from community programs (i.e., work release) to supervised release. Because offenders can be released from either prison or a community program more than once in a given year, the above measures the total number of transitions to a release status, not the total number of individual offenders who exit a prison facility.

Failure to Register as Predatory Offender: Sentenced 2015-2019

Minnesota Sentencing Guidelines Commission (MSGC) monitoring data are offender-based, meaning cases represent offenders rather than individual charges. Offenders sentenced within the same county in a one-month period are generally counted only once, based on their most serious offense. This data request was prepared by the research staff of MSGC in fulfillment of the Commission's statutory role as a clearinghouse and information center for information on sentencing practices. This is not a policy document. Nothing in this request should be construed as a statement of existing policy or recommendation of future policy on behalf of the Commission itself, or as an authoritative interpretation of the Minnesota Sentencing Guidelines, Minnesota statutes, or case law.

Information Requested: This data request consists of four parts: Part 1: A three-column table is requested. Scope: 243.166 cases sentenced 2015-2019 Column 1: Cases without a mitigated dispositional departure Column 2: Cases with a mitigated dispositional departure Column 3: All cases Row 1: Average annual case volume (i.e., case volume divided by 5) Row 2: Percentage distribution of the first two columns (column 3 = 100%). Row 3: Among those committed to DOC, average prison duration (mo.) Row 4: Among those not committed to DOC, average local confinement duration (days) Rows 5-6: Percentage distribution by sex (total of rows = 100%) Rows 7-11: Percentage distribution by race (total of rows = 100%) Rows 12-18: Percentage distribution by age category (total of rows = 100%) Rows 19-24: Percentage distribution by type of custody (total of rows = 100%) Rows 25-31: Percentage distribution by criminal history score (total of rows = 100%) Row 32: Percent sentenced under 243.166.5(c) (second or subsequent) or whatever your data field is Row 33: Percent with true prior sex offense (with a definition of true prior sex offense in the table notes) Part 2: A table identical to Table 7 in the 2021 Report to the Legislature is requested, but limited to 243.166 cases sentenced in 2019 without a mitigated dispositional departure. Part 3: A table identical to Table 7 in the 2021 Report to the Legislature is requested but limited to 243.166 cases sentenced in 2019 with a mitigated dispositional departure. Part 4: A table identical to Table 7 in the 2021 Report to the Legislature is requested but limited to 243.166 cases sentenced in 2019 (total).

Analysis:

- Sentenced 2015-2019
- Failure to Register as Predatory Offender (FRPO) under Minn. Stat. § 243.166
- Excludes attempts under Minn. Stat. § 609.17 (four cases)

From 2015-2019, 1,995 offenders were sentenced for FRPO under Minn. Stat. § 243.166 – 1,453 (73%) were convicted under subdivision 5(b) (first FRPO offense) and 542 (27%) were convicted under subdivision 5(c) (subsequent FRPO offense). 943 (47%) of the 1,995 offenders received a mitigated dispositional departure.

Table 1. Failure to Register as Predatory Offender (FRPO) Cases, Sentenced 2015-2019

| | | Dispositional Departure | | All Cases |
|----------------|--|-------------------------|------------|--------------|
| | | None | Mitigated | |
| Total | Average Annual Case Volume | 210.4 | 188.6 | 399 cases |
| | Percent | 52.7 | 47.3 | 100 percent |
| | Average Prison Duration ¹ | 21.2 mos. | NA | 1,047 cases |
| | Average Local Confinement Duration ²³ | NA | 110.2 days | 784 cases |
| Sex | Male | 98.7 | 96.4 | 97.6 percent |
| | Female | 1.3 | 3.6 | 2.4 percent |
| Race/Ethnic. | White | 46.8 | 53.9 | 50.1 percent |
| | Black | 31.8 | 31.8 | 31.8 percent |
| | American Indian | 11.0 | 6.7 | 9.0 percent |
| | Hispanic | 8.4 | 5.6 | 7.1 percent |
| | Asian | 1.9 | 1.9 | 1.9 percent |
| Age Category | 18-21 | 6.3 | 10.3 | 8.2 percent |
| | 22-25 | 13.9 | 13.7 | 13.8 percent |
| | 26-30 | 18.3 | 17.3 | 17.8 percent |
| | 31-40 | 35.5 | 29.1 | 32.4 percent |
| | 41-50 | 16.6 | 16.5 | 16.6 percent |
| | 51+ | 9.5 | 13.1 | 11.2 percent |
| Custody Status | None | 37.1 | 59.6 | 47.7 percent |
| | Probation | 34.1 | 27.6 | 31.0 percent |
| | Parole/Supervised Release | 23.1 | 9.0 | 16.4 percent |
| | Confined | 0.2 | 0.0 | 0.1 percent |
| | Release Pending Sentencing | 1.6 | 1.5 | 1.6 percent |
| | Extended Jurisdiction Juvenile (EJJ)* | 0.3 | 0.1 | 0.2 percent |
| | Within Original Probation Term* | 1.1 | 1.2 | 1.2 percent |
| | Conditional Release | 2.5 | 1.1 | 1.8 percent |
| CHS | CHS 0 | 2.6 | 16.0 | 8.9 percent |
| | CHS 1 | 7.2 | 15.0 | 10.9 percent |
| | CHS 2 | 13.8 | 20.4 | 16.9 percent |
| | CHS 3 | 19.4 | 15.6 | 17.6 percent |
| | CHS 4 | 18.0 | 13.7 | 15.9 percent |
| | CHS 5 | 15.3 | 8.4 | 12.0 percent |
| | CHS 6+ | 23.8 | 11.0 | 17.7 percent |
| Other | Subdivision 5(b) (first FRPO offense) | 65.8 | 79.7 | 72.4 percent |
| | Subdivision 5(c) (subsequent FRPO) | 34.2 | 20.3 | 27.6 percent |
| | True Prior Sex Offense ⁴ | 50.9 | 40.2 | 45.8 percent |

* EJJ and within original probation term are no longer eligible for custody status.

¹ The average prison duration excludes four cases that received a consecutive sentence.

² The average local confinement duration is based on cases that received jail as a condition of probation (785 cases) and does not include cases that received other sanctions (137 cases) or a jail sentence (21 cases).

³ The average local confinement duration excludes one case that received a consecutive sentence.

⁴ A "true prior" is defined as an offense with a disposition date before the date the FRPO offense was committed. "True prior," within the meaning of this report, is not a statutory or Guidelines term, and may or may not correlate with statutory or Guidelines terms such as "prior," "previous," or "subsequent."

Table 2 compares, by the categories of sex, race or ethnicity, and judicial district, the population of felony FRPO cases sentenced in 2019 that did not receive a mitigated dispositional departure with the 2019 estimated state adult population. Within those comparison categories, Table 2 also calculates the rate of cases sentenced in 2019 per 100,000 Minnesota residents age 18 and older on July 1 of the respective year.

Table 2. FRPO Cases Sentenced, Received Presumptive Disposition (Prison), 2019, by Gender, Race/Ethnicity, and Judicial District, Compared to 2019 Estimated Adult Population

| | Cases Sentenced in 2019 | | U.S. Census Category | 2019 Estimated Adult Population | | Cases Sentenced per 100,000 | |
|----------------------|-------------------------|------------|----------------------|---|------------------|-----------------------------|------------|
| | MSGC Category | Number | | Percent | Number | | Percent |
| | Male | 204 | 98.6% | Male | 2,144,041 | 49.4% | 9.5 |
| | Female | 3 | 1.4% | Female | 2,192,434 | 50.6% | 0.1 |
| Race & Ethnicity | White | 108 | 52.2% | White* | 3,629,537 | 83.7% | 3.0 |
| | Black | 65 | 31.4% | Black or African American* | 278,909 | 6.4% | 23.3 |
| | American Indian | 15 | 7.2% | American Indian* | 66,414 | 1.5% | 22.6 |
| | Hispanic** | 17 | 8.2% | Hispanic** | 197,548 | 4.6% | 8.6 |
| | Asian | 2 | 1.0% | Asian* | 228,242 | 5.3% | 0.9 |
| | Other/Unknown | 0 | 0.0% | Native Hawaiian/Other Pacific Islander* | 4,975 | 0.1% | 0.0 |
| Judicial District*** | First | 16 | 7.7% | First | 608,254 | 14.0% | 2.6 |
| | Second | 36 | 17.4% | Second | 422,368 | 9.7% | 8.5 |
| | Third | 21 | 10.1% | Third | 372,086 | 8.6% | 5.6 |
| | Fourth | 31 | 15.0% | Fourth | 989,707 | 22.8% | 3.1 |
| | Fifth | 26 | 12.6% | Fifth | 221,404 | 5.1% | 11.7 |
| | Sixth | 11 | 5.3% | Sixth | 202,578 | 4.7% | 5.4 |
| | Seventh | 20 | 9.7% | Seventh | 379,092 | 8.7% | 5.3 |
| | Eighth | 9 | 4.3% | Eighth | 122,619 | 2.8% | 7.3 |
| | Ninth | 17 | 8.2% | Ninth | 264,123 | 6.1% | 6.4 |
| | Tenth | 20 | 9.7% | Tenth | 754,244 | 17.4% | 2.7 |
| | Total | 207 | 100.0% | Total | 4,336,475 | 100.0% | 4.8 |

Source of July 1, 2019, population estimate: U.S. Census Bureau (Sept. 2020).

*Not Hispanic, alone or in combination with one or more other races. The sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.6%) because residents of more than one race are counted in more than one category.

**Table 2 lists all Hispanic offenders and residents as Hispanic, regardless of race.

***The MSGC category of "Other/Unknown" is not a valid comparison group to the U.S. Census category of "Native Hawaiian/Other Pacific Islander."

Table 3 compares, by the categories of sex, race or ethnicity, and judicial district, the population of felony FRPO cases sentenced in 2019 that received a mitigated dispositional departure with the 2019 estimated state adult population. Within those comparison categories, Table 3 also calculates the rate of cases sentenced in 2019 per 100,000 Minnesota residents age 18 and older on July 1 of the respective year.

Table 3. FRPO Cases that Received a Mitigated Dispositional Departure, 2019, by Gender, Race/Ethnicity, and Judicial District, Compared to 2019 Estimated Adult Population

| | MSGC Category | Cases Sentenced in 2019 | | U.S. Census Category | 2019 Estimated Adult Population | | Cases Sentenced per 100,000 |
|----------------------|-----------------|-------------------------|---------------|---|---------------------------------|---------------|-----------------------------|
| | | Number | Percent | | Number | Percent | |
| | Male | 195 | 98.5% | Male | 2,144,041 | 49.4% | 9.1 |
| | Female | 3 | 1.5% | Female | 2,192,434 | 50.6% | 0.1 |
| Race & Ethnicity | White | 108 | 54.5% | White* | 3,629,537 | 83.7% | 3.0 |
| | Black | 62 | 31.3% | Black or African American* | 278,909 | 6.4% | 22.2 |
| | American Indian | 14 | 7.1% | American Indian* | 66,414 | 1.5% | 21.1 |
| | Hispanic** | 13 | 6.6% | Hispanic** | 197,548 | 4.6% | 6.6 |
| | Asian | 1 | 0.5% | Asian* | 228,242 | 5.3% | 0.4 |
| | Other/Unknown | 0 | 0.0% | Native Hawaiian/Other Pacific Islander* | 4,975 | 0.1% | 0.0 |
| Judicial District*** | First | 17 | 8.6% | First | 608,254 | 14.0% | 2.8 |
| | Second | 40 | 20.2% | Second | 422,368 | 9.7% | 9.5 |
| | Third | 24 | 12.1% | Third | 372,086 | 8.6% | 6.5 |
| | Fourth | 28 | 14.1% | Fourth | 989,707 | 22.8% | 2.8 |
| | Fifth | 24 | 12.1% | Fifth | 221,404 | 5.1% | 10.8 |
| | Sixth | 4 | 2.0% | Sixth | 202,578 | 4.7% | 2.0 |
| | Seventh | 12 | 6.1% | Seventh | 379,092 | 8.7% | 3.2 |
| | Eighth | 10 | 5.1% | Eighth | 122,619 | 2.8% | 8.2 |
| | Ninth | 14 | 7.1% | Ninth | 264,123 | 6.1% | 5.3 |
| | Tenth | 25 | 12.6% | Tenth | 754,244 | 17.4% | 3.3 |
| | Total | 198 | 100.0% | Total | 4,336,475 | 100.0% | 4.6 |

Source of July 1, 2019, population estimate: U.S. Census Bureau (Sept. 2020).

*Not Hispanic, alone or in combination with one or more other races. The sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.6%) because residents of more than one race are counted in more than one category.

**Table 3 lists all Hispanic offenders and residents as Hispanic, regardless of race.

***The MSGC category of "Other/Unknown" is not a valid comparison group to the U.S. Census category of "Native Hawaiian/Other Pacific Islander."

Table 4 compares, by the categories of sex, race or ethnicity, and judicial district, the population of all felony FRPO cases sentenced in 2019 with the 2019 estimated state adult population. Within those comparison categories, Table 4 also calculates the rate of cases sentenced in 2019 per 100,000 Minnesota residents age 18 and older on July 1 of the respective year.

Table 4. FRPO Cases Sentenced, 2019, by Gender, Race/Ethnicity, and Judicial District, Compared to 2019 Estimated Adult Population

| | MSGC Category | Cases Sentenced in 2019 | | U.S. Census Category | 2019 Estimated Adult Population | | Cases Sentenced per 100,000 |
|------------------|----------------------|-------------------------|---------------|---|---------------------------------|---------------|-----------------------------|
| | | Number | Percent | | Number | Percent | |
| | Male | 399 | 98.5% | Male | 2,144,041 | 49.4% | 18.6 |
| | Female | 6 | 1.5% | Female | 2,192,434 | 50.6% | 0.3 |
| Race & Ethnicity | White | 216 | 53.3% | White* | 3,629,537 | 83.7% | 6.0 |
| | Black | 127 | 31.4% | Black or African American* | 278,909 | 6.4% | 45.5 |
| | American Indian | 29 | 7.2% | American Indian* | 66,414 | 1.5% | 43.7 |
| | Hispanic** | 30 | 7.4% | Hispanic** | 197,548 | 4.6% | 15.2 |
| | Asian | 3 | 0.7% | Asian* | 228,242 | 5.3% | 1.3 |
| | Other/Unknown | 0 | 0.0% | Native Hawaiian/Other Pacific Islander* | 4,975 | 0.1% | 0.0 |
| | Judicial District*** | First | 33 | 8.1% | First | 608,254 | 14.0% |
| Second | | 76 | 18.8% | Second | 422,368 | 9.7% | 18.0 |
| Third | | 45 | 11.1% | Third | 372,086 | 8.6% | 12.1 |
| Fourth | | 59 | 14.6% | Fourth | 989,707 | 22.8% | 6.0 |
| Fifth | | 50 | 12.3% | Fifth | 221,404 | 5.1% | 22.6 |
| Sixth | | 15 | 3.7% | Sixth | 202,578 | 4.7% | 7.4 |
| Seventh | | 32 | 7.9% | Seventh | 379,092 | 8.7% | 8.4 |
| Eighth | | 19 | 4.7% | Eighth | 122,619 | 2.8% | 15.5 |
| Ninth | | 31 | 7.7% | Ninth | 264,123 | 6.1% | 11.7 |
| Tenth | | 45 | 11.1% | Tenth | 754,244 | 17.4% | 6.0 |
| | Total | 405 | 100.0% | Total | 4,336,475 | 100.0% | 9.3 |

Source of July 1, 2019, population estimate: U.S. Census Bureau (Sept. 2020).

*Not Hispanic, alone or in combination with one or more other races. The sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.6%) because residents of more than one race are counted in more than one category.

**Table 4 lists all Hispanic offenders and residents as Hispanic, regardless of race.

***The MSGC category of "Other/Unknown" is not a valid comparison group to the U.S. Census category of "Native Hawaiian/Other Pacific Islander."

Appendix I

Additional Research Suggestions Submitted by Patty Wetterling, Former Chair, National Center for Missing and Exploited Children

Research regarding Problematic Sexual Behavior in Children and Adolescents

1. Children should be placed in the least restrictive level of care consistent with community safety. Generally, community and home-based interventions are safe and effective in treating PSB.¹
2. Over one third (35.6%) of those who have committed a sexual offense against a child or adolescent, and known to the police, are themselves children or adolescents,² and a recent study found that as much as 70-77 percent of sexual abuse against children or adolescents is committed by other children or teens.³ It is a challenging complication when the parent is both parent of the victim as well as parent of the child who caused sexual harm, which is demonstrated by the fact that over half of these offenses remain unreported to Law Enforcement.
3. Outcomes for children and adolescents who have engaged in PSB and who have participated in evidence-based treatment programs are favorable for the child or adolescent and in reducing community risk.⁴
4. Just as young children differ from adolescents, adolescents who engage in sexually abusive behavior differ significantly from adults convicted of sexually abusive behavior due to a number of developmental, and particularly neurodevelopmental, factors. Functional Magnetic Resonance Imaging (fMRI) neurological studies have identified several key processes in the reorganization of the adolescent brain that are associated with changes in behavior that occur during adolescence (Gogtay & Thompson, 2010; Lenroot & Giedd, 2006). This and other research has documented that adolescents' diminished ability to manage their emotions, control impulses, solve problems, and react appropriately to the influence of others is in large part a reflection of adolescent brain development of two processes: (a) a socioemotional system that controls impulses, emotional arousal, and the influence of interpersonal relationships; and (b) a cognitive control system that involves deliberative thinking, foresight, impulse control, problem solving and mature judgment

¹ St. Amand, A., Bard, D., & Silovsky, J.F. "Meta-Analysis of Treatment for Child Sexual Behavior Problems: Practice Elements and Outcomes." *Child Maltreatment*. Volume: 13, 2008, pp145-166.

² Finkelhor, D., Ormrod, R., & Chaffin, M. "Juveniles Who Commit Sex Offenses Against Minors." OJJDP Juvenile Justice Bulletin. U.S. Department of Justice, Office of Justice Programs. 2009.

³ Gewirtz-Meydan, A., Finkelhor, D. "Sexual Abuse and Assault in a Large National Sample of Children and Adolescents." *Child Maltreatment*, Volume: 25(22), 2020, pp 203-214.

⁴ Schmucker, M., & Lösel, F. (2015). "The Effects of Sexual Offender Treatment on Recidivism: An International meta-analysis of sound quality evaluations." *Journal of Experimental Criminology*, Volume: 11, 2015, pp 597-630.

Worling, J.R., Littlejohn A., & Bookalam, D., "20-Year Prospective Follow-Up Study of Specialized Treatment for Adolescents Who Offend Sexually." *Behavioral Sciences & the Law*. Volume: 28, 2010. Pp 46-57.

(Conklin et al., 2007; Crone & vander Molen. 2004; Hooper et al., 2004; Luna et al., 2001; Steinberg, 2007, 2010).

The implementation of punitive policies, such as registration and community notification, applied to children and adolescents who have been adjudicated for sexual offenses has also been associated with a 41% decrease in sexual offense charges being forwarded by prosecutors and an increase in plea bargains for nonsexual offenses (Letourneau et al., 2013; Letourneau et al., 2009). As a result of non-sexual charges being applied, there is a risk that adolescents may not qualify for specialized treatment programs in their jurisdiction that are available only to those adjudicated for a sexual offense. These effects have also been shown to occur for adolescents charged with a sexual crime that result in a non-sexual adjudication, with similar negative outcomes regarding ineligibility for treatment programs and similar services (Letourneau et al., 2009; Letourneau et al., 2013; Letourneau et al., 2010a; Calley, 2008).⁵

⁵ Association for the Treatment of Sexual Abusers Registration and Community Notification of Children and Adolescents Adjudicated of a Sexual Crime: Recommendations for Evidence-Based Reform. 2020