



December 3, 2012

Honorable Tony Cornish, Chair
House Public Safety and Crime Prevention Policy and Finance Committee

Honorable Warren Limmer, Chair
Senate Judiciary and Public Safety Committee

Dear Committee Chairs:

Minn. Stat. § 241.272 authorizes the Department of Corrections (DOC) to collect supervision fees from offenders on probation and supervised release and directs the department to report annually on fees imposed and collected. The purpose of the supervision fee is to defray costs associated with providing correctional services.

This report contains a fiscal year summary of supervision fee assessment and collection, including information on the types of correctional services for which fees were imposed, the aggregate amount of fees imposed, and the amount of fees collected.

Types of Correctional Services for which Fees are Imposed

The department provides correctional services for various types of community supervision. Community supervision services include random searches, face-to-face meetings, rehabilitative programming, curfew schedules, testing for chemical abstinence, and any other conditions that are deemed appropriate by the court or the commissioner. The types of correctional services are as follows:

- **Probation** – a court-ordered sanction imposed upon an offender for a period of supervision as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation (Minn. Stat. § 609.02, subd. 15.).
- **Supervised Release and Parole** – a period of community supervision to be served after the term of imprisonment as defined under Minn. Stat. § 244.01, subd. 8, or for a term determined by the commissioner for a life-sentenced offender.
- **Conditional Release** – community supervision to be served under the authority of the commissioner for a period mandated by statute based on the specific offense committed by the offender, such as felony DWI under Minn. Stat. § 169A.276, subd. 1(d), and criminal sexual conduct under Minn. Stat. § 609.3455.

- **Intensive Supervised Release (ISR)** – a special supervision program for high-risk offenders pursuant to Minn. Stat. § 244.05, subd. 6.
- **Challenge Incarceration Program Phases II and III (CIP)** – community supervision as part of the Challenge Incarceration early-release program pursuant to Minn. Stat. § 244.17-244.172.
- **Conditional Release of Nonviolent Controlled Substance Offenders Program (CRP)** – community supervision as part of the early-release program for nonviolent controlled substance offenders pursuant to Minn. Stat. § 244.055. This program expired July 1, 2011. *See* Minnesota Laws 2009 Ch. 83, Art. 3, § 11.

Fee Assessment

The supervision fee is imposed upon each person supervised by DOC state and contract agents at the time supervision begins. In the past, the fee was charged for each year of supervision. In 2009, the DOC began assessing a one-time supervision fee per case file to establish consistency with other correctional agencies and for administrative efficiency. Fees are assessed per court file in the amount of \$300 for each felony, \$200 for each gross misdemeanor, and \$100 for each misdemeanor. The fees are assessed at the onset of supervision, less any amount already collected for that offense.

Fee Collection

Per statutory instruction, supervision fees collected by DOC state agents are deposited into the General Fund, while fees collected from offenders supervised for misdemeanor offenses by DOC contract agents under Minn. Stat. § 244.19, subd. 1(a) (3) are deposited with the county treasurer in the county where supervision is provided. **Table 1** reflects the aggregate amount of fees imposed and collected for the 2011 and 2012 fiscal years. Please note that fees imposed during any given year may be collected in a subsequent year, as offenders are allowed to pay the fee over the course of one year. Due to the timing of assessment and collection, it remains difficult to project the compliance rate.

The commissioner is authorized to waive payment of supervision fees or to require completion of community work service in lieu of payment. In FY2009, the department amended its internal policy to limit the availability of waivers and to provide for completion of community work service in lieu of direct payment. **Tables 2 and 3** illustrate the reasons for waivers, along with the rate of each waiver to the number of fees imposed. During FY2011, 9,076 fees were imposed with 340 waived. This is a waiver rate of 3.7 percent. In 2012 9,656 fees were imposed with 298 waived. This is a waiver rate of 3.5 percent.

When supervision ceases as a result of revocation of an offender's term of probation or supervised release, or when the offender fails to pay the fee in full within one year and has not received a waiver, the unpaid balance is submitted for collection by revenue recapture to the Minnesota Department of Revenue. Offenders may contest the revenue recapture claim under M.S. Ch. 270A. Collection costs associated with the administrative hearing process, not including DOC staff and attorney costs, are illustrated in **Table 4**.

In FY2011, internal and external measures resulted in changes to the collection of fees through revenue recapture. The department's internal policy established a process for removal of any revenue recapture claims outside of the six year statute of limitations for collection. Software changes at the Minnesota

Department of Revenue also impacted the department's ability to collect supervision fees through recapture, as the new software only accepts recapture claims where the taxpayer has filed a tax return in the past four years. Previously, a claim could be submitted if the taxpayer had ever filed a tax return. The change has resulted in an increased number of debtors whose unpaid fees cannot be collected through recapture.

Table 1: Supervision Fees Imposed and Collected for FY2011 and FY2012

<i>Release Type</i>	<i>2011 Fees Imposed</i>	<i>2012 Fees Imposed</i>
CIP	\$ 71,800	\$ 75,980
ISR	85,160	77,170
Probation	1,765,170	1,725,066
Supervised Release	180,340	188,800
Total	\$2,102,470	\$2,067,016
<i>Release Type</i>	<i>2011 Fees Collected</i>	<i>2012 Fees Collected</i>
CIP	\$ 50,021	\$ 45,346
ISR	16,020	19,025
CRP	120	270
Probation	822,067	709,416
Supervised Release	70,437	78,291
Total	\$ 958,665	\$852,348
Disbursement 2011		Disbursement 2012
General Fund \$682,469	County \$276,196	General Fund \$590,790
		County \$261,558

Table 2: Supervision Fee Waivers by Release Type for FY2011

<i>Waiver Type</i>	<i>Special Supervision (ISR/CIP/CRP)</i>	<i>Probation</i>	<i>Supervised Released</i>	<i>Total Number of Waivers</i>	<i>Waiver Rates</i>
Death	2	41	5	48	.5%
Under \$25 – No Revenue Recapture	5	27	4	36	.4%
Work Service	5	229	22	256	2.8%
Total Waivers	12	297	31	340	3.7%

Table 3: Supervision Fee Waivers by Release Type for FY2012

<i>Waiver Type</i>	<i>Special Supervision (ISR/CIP/CRP)</i>	<i>Probation</i>	<i>Supervised Released</i>	<i>Total Number of Waivers</i>	<i>Waiver Rates</i>
Death	1	39	8	48	.5%
Under \$25 – No Revenue Recapture	0	23	5	28	.3%
Work Service	6	236	19	261	2.7%
Total Waivers	7	298	32	337	3.5%

Table 4: Contested Revenue Recapture Administrative Hearing Costs

	<i>Amount Contested</i>	<i>Office of Administrative Hearings Billing Costs</i>
FY2008	\$290.00	\$3,398.00
FY2009	\$2,440.00	\$11,398.00
FY2010	\$2,160.00	\$6,009.00
FY2011	\$1,880.00	\$4,234.00
FY2012	\$1,700.00	\$3,081.16

Please contact me if you have questions regarding this report.

Sincerely,

/s/
Tom Roy
Commissioner

c: Honorable Joe Mullery
Honorable Ron Latz
Legislative Reference Library
State Law Library
Minnesota Historical Society

The total cost of salaries and supplies incurred in development and preparation of this report was \$1,852 (reported as required by M.S. 3.197).