

Iowa Sex Offender Research Council

**Report to the Iowa General Assembly
January, 2012**

Staff support to the Iowa Sex Offender Research Council is provided by

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A division of the Iowa Department of Human Rights

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Preface

Over the last several years, lawmakers have responded to several highly publicized child abduction, assault, and murder cases. While such cases remain rare in Iowa, the public debates they have generated are having far-reaching effects. Policy makers are responsible for managing the nature of such effects. Challenges they face stem from the need to avoid responses whose primary motivation is political and the desire to make informed decisions that recognize both the strengths and the limitations of the criminal justice system as a vehicle for promoting safe and healthy families and communities.

One of the standing goals of the Research Council is to provide nonpartisan guidance to help avoid or fix problematic sex offense policies and practices. Setting this goal was a response to the concern over what can result from elected officials' efforts to respond to the types of sex offender-related concerns that can easily become emotionally laden and politically charged due to the universally held abhorrence of sex crimes against children.

An issue of perhaps the greatest interest to many Council members is a belief in the benefit of viewing Iowa's efforts to protect children from sex crimes with as comprehensive a platform as possible. It has been suggested that much more can be done to prevent child-victim sex crimes than would be accomplished by concentrating solely on what to do with offenders *after* a crime has occurred. To prevent child victimization, most laws and policy provisions rely largely on incapacitation and future deterrent effects of increased penalties, more restrictive supervision practices, and greater public awareness of the risk presented by a segment of Iowa's known sex offenders. For some offenders, these policies will no doubt prevent future sex crimes against children, and the Council supports long-term studies to examine the desired results, and for ways to improve such results through better supervision tools and more effective offender treatment.

Unfortunately, many of the effects from the new policies may primarily influence persons who have already committed sex offenses against minors and who have already been caught doing so. The evidence suggests, however, that most offenders coming to the attention of the justice system for sex crimes have not previously been adjudicated for such crimes. Thus, Council members continue to discuss the need for a range of preventive efforts and a need to think about sex crimes against children from other than just a "reaction-to-the-offender" perspective. This is particularly true for juvenile sex offenders, where early intervention has the best potential to stop future offending behaviors.

Along with incapacitation and deterrence, comprehensive approaches to the prevention of child-victim sex crimes would also involve ensuring that parents have the tools needed to detect signs of adults with sex behavior problems, to both help teach their children about warning signs and to find the support necessary for healthy parenting. School, faith-based, and other community organizations might benefit from stronger

supports and better tools to more effectively promote positive youth development and the learning of respect for others, respect for boundaries, and healthy relationships.

All of us who have children, or who live in communities where there are children, need to understand the limitations of our justice system and the importance of our own ability to play a role in preventing sexual abuse and protecting children from sex offenders, who are often the child's own family members. Over 1,000 incidents of child sexual abuse are confirmed or founded each year in Iowa, and many such acts take place in the child's home or the residence of the caretaker of the child. Efforts to prevent child sexual abuse and to provide for early interventions with children and families at risk should be strategically examined and strengthened.

Summary of Recommendations

Following are the specific recommendations to be found in the body of this report.

There is sufficient evidence that sex offenders and the public benefit from a period of supervision and treatment/relapse prevention support in the community, particularly after incarceration. However, the current policy of set terms of post-sentence parole is not supported by research, is not the most effective use of limited resources, and does not contribute to increased public safety.

Therefore, it is recommended that IA Code 903B be amended to establish 1) a minimum number of years on post-sentence parole, 2) a required review of each offender's progress and risk every *X* number of years, and 3) that an extension of parole past the review date would require proof of risk of sexual or violent re-offense. The SORC does not recommend a minimum parole term or review cycle at this time, but recommends that they be based upon a further review of the literature and best practices.

Further, as the Division of Criminal and Juvenile Justice Planning, Department of Human Rights has lost the funding for support of the Sex Offender Research Council, the SORC recommends that the General Assembly appropriate sufficient funds to support a position to continue research on best practices for the management of sex offenders in Iowa.

Overview of Sex Offenses and Offenders

There were three major changes in Iowa Code in the 2000's pertaining to sex offenses and sex offenders. The first was in 2002 with the implementation of a 2,000-ft residency restriction on where convicted sex offenders could reside. While that provision's implementation was delayed until October of 2005 pending judicial reviews, the passage of that requirement was a significant change in sex offender management in the community.

In 2005, legislation was passed to increase penalties for certain sex offenses and create special sentences that place sex offenders on community supervision after completing their original sentences (special sentences). The special sentences place offenders convicted of offenses in IA Code 709, 726.2, and 728.12 (1), (2), or (3) on either 10-year or life-time community supervision based solely upon the offense class of conviction, with offenders convicted of C, B, and A felony sex offenses receiving life-time community supervision and Serious and Aggravated misdemeanor and D felony offenders receiving 10-year supervision sentences (§903B, Code of Iowa). At that time, §692A, the Sex Offender Registry section of the Code, was also amended to link length of registration for some offenders to the special sentence length.

In 2009, the Legislature amended §692A of the Code of Iowa (Sex Offender Registry) to move the State toward compliance with certain provisions of the Federal Adam Walsh Act. Key changes included the creation of three tiers of offenders with increased reporting time frames, mandating registration for selected juvenile offenders, applying the residency restrictions to a smaller number of offenders, and creating exclusionary zones for sex offenders.

This report tracks data on the impact of these changes on juvenile adjudications and registration, convictions, adult sex offender registration, prison populations, and community-based supervision. The report is structured in four parts: data, a review of the literature, a discussion of the impact of the changes on the justice system in Iowa, and recommendations for the Iowa General Assembly to consider.

Part 1 - Data

Adjudication, conviction, supervision, and prison data are from the Iowa Justice Data Warehouse/Iowa Court Information System and Iowa Corrections Offender Network. Registry information is from the Iowa Department of Public Safety.

Juveniles

Juvenile Data, Adjudications

OFFENSE	CLASS	FY08	FY09	FY10	FY11
Assault with intent/serious inj.	FELC	0	1	1	3
Assault with intent/injury	FELD	5	2	3	2
Assault with intent/no injury	AGMS	19	20	25	24
Sex abuse 2nd	FELB	58	85	44	74
Sex abuse 3rd	FELC	20	21	12	11
Sex abuse 3rd, victim 12-13	FELC	3	8	16	19
Sex abuse 3rd, <20	FELC	3	4	1	10
Lascivious acts	FELC	2	2	2	1
Lascivious acts	FELD	0	0	0	1
Incest	FELD	2	4	2	0
Indecent contact w/ child	AGMS	0	0	1	1
Indecent exposure	SRMS	12	10	6	8
Sexual exploitation of child	FELC	1	0	0	1
Medium depicting exploit child	AGMS	0	2	2	4
TOTAL CHARGES		125	159	115	151
NUMBER JUVENILES		114	114	104	128

As noted above, the most common offense for adjudication was Sex Abuse 2nd. There are three separate conditions that define the offense: uses or threatens force; having another person aide or abet in the use of force; or age of victim under 12. Only one condition is necessary for the charge. The coding structure in the Justice Data Warehouse does not include information on the specific section of 709.3 to permit a more in-depth analysis of the underlying reason for the adjudication. However, in FY2010, the average age of a juvenile adjudicated for Sex Abuse 2nd was 13.63 years. In FY2011, the average age was 14.41. In both years, the youngest juvenile adjudicated for Sex Abuse 2nd was 11.

Juvenile Sex Offender Registry

With the exception of juveniles age 14 and over adjudicated for certain violent sex offenses, juvenile placement on the Registry is handled by Juvenile Court. Length of registration is determined by a number of factors including IA Code requirements, juvenile court modifications at final case disposition, and modifications that can be granted by petition. Therefore, the number of juveniles on the Registry is a fluid number. The data below are current as of 10/20/2011.

The first table represents juveniles placed on the Registry during the fiscal year. The second table are those who are Active registrants and juvenile (<18 years of age).

	FY2008	FY2009	FY2010	FY2011
JUVENILES PLACED ON REGISTRY	19	14	29	28
*Note: The number is based upon age at offense, not necessarily age at registration.				

Active Juvenile Registrants, by Tier

Tier I	5
Tier II	0
Tier III	13

Adult Data

Sex offenses included in the data tables below are IA Code chapters/sections 709, 726.2, and 728.12 (1), (2), (3). These offenses are hereafter referred to as sex offenses.

Number of Offenders Convicted of Sex Offenses

FY2007	FY2008	FY2009	FY2010	FY2011
507	460	455	523	542

Number of New Sex Offense Commitments to Prison

FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011
253	264	237	206	170	209	200

Does not include registry, residency or special sentence commitments

% Sex Offenders Released from Prison for Expiring Sentence

FY2007-08	FY2009	FY2010	FY2011
66.7%	75.0%	52.3%	72.1%

Median Length of Stay of First Releases, Sex Offenders (in months)

FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011
44.7	44.1	40.0	42.8	49.2	48.7	48.6

Number of Offenders Eligible for Special Sentence, Based on Conviction Class

	FY2007	FY2008	FY2009	FY2010	FY2011
10 year	255	240	241	280	299
Life	223	201	183	243	243

Number of Offenders on Special Sentence Supervision (CBC)

6/30/2007	6/30/2008	6/30/2009	6/30/2010	6/30/2011
6	28	95	191	320

**Number of Offenders on Special Sentence Supervision, by District
June 30, 2011**

	1JD	2JD	3JD	4JD	5JD	6JD	7JD	8JD
#	43	40	40	20	66	41	28	42

Court Commitments for Special Sentence Violations

	FY2007	FY2008	FY2009	FY2010	FY2011
1 st Offense, 2 yr	4	11	26	47	57
2 nd Offense, 5 yr	0	0	0	5	11

Number of Active Persons on the Sex Offender Registry (Oct. 20, 2011)

Tier I	1,062
Tier II	1,481
Tier III	2,899

On 10/20/2011 there were 12 active records awaiting Tier assignment and 71 offenders with unconfirmed addresses.

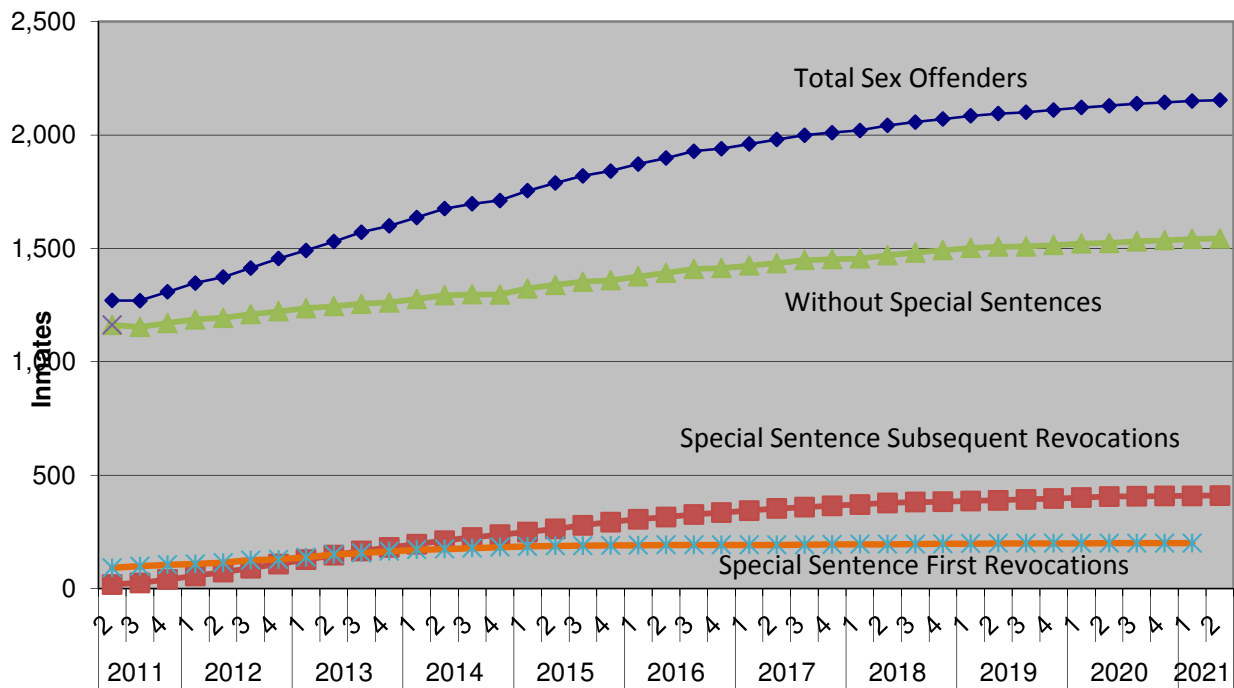
Number of Offenders Convicted of Registry Violations

	FY2008	FY2009	FY2010	FY2011
Residency	52	48	23	36
Registry	368	342	284	291
Area/Activity	NA	NA	9	26
	420	390	316	353

Number of Prison Admissions for Registry Violations

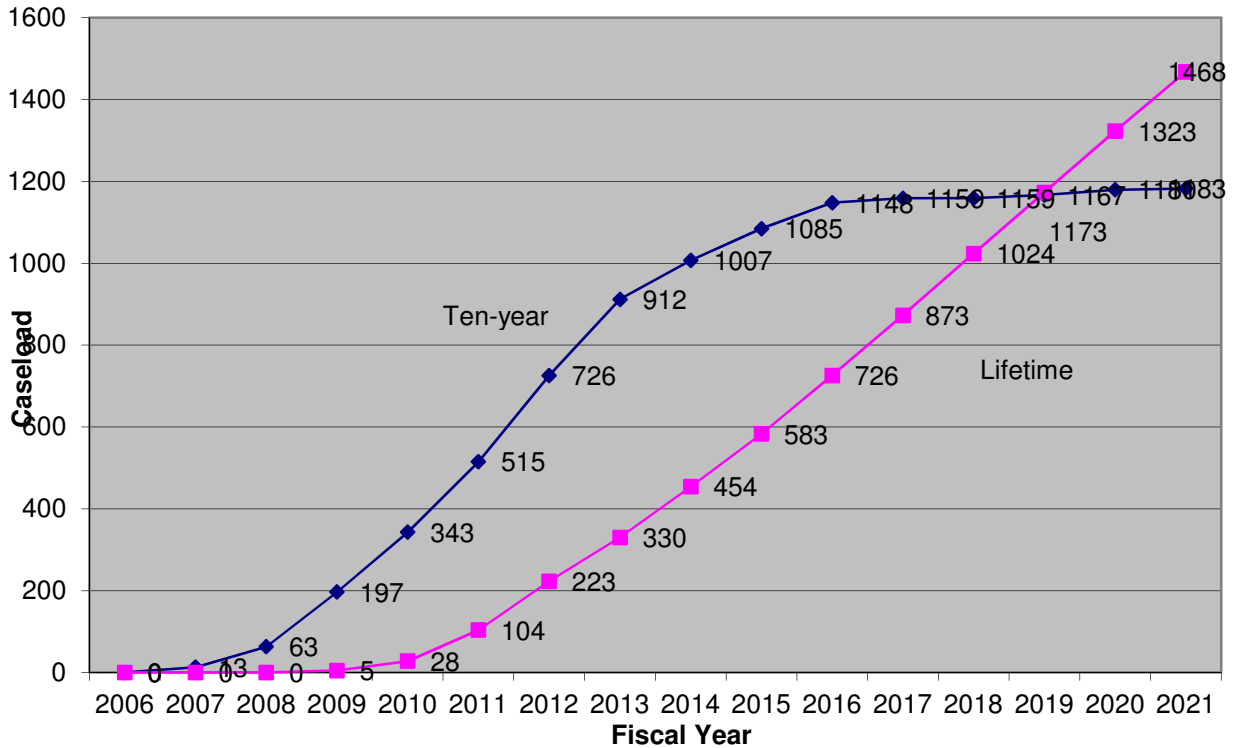
	FY2009	FY2010	FY2011
Residency	2	0	0
Registry	68	60	64
Area/Activity	NA	2	0
	70	62	64

Projected Sex Offenders in Iowa Prisons



Prepared by CJP 10/20/11

Anticipated Special Sentence Caseloads FY11



Literature Review

Since the inception of registration laws for sex offenders, there has grown a significant body of research aimed at determining the impact of such laws on public safety. The research can be categorized into two basic areas: reduction in recidivism on the part of offenders (deterrent effect); and public behavior and perception of the law. Research has often differentiated between juvenile offenders and adult offenders. Some of the research is summarized below.

Juvenile

Much has been written about the difference between juvenile sex offenders and adult sex offenders. Research suggests that juvenile recidivism can be lower than that of adult offenders, and juveniles respond better to treatment that is tailored to juvenile offending patterns, brain development, and history of abuse. Consequently, a system that treats juvenile offenders with the same laws and consequences as adult offenders has not been proven to be effective at either promoting public safety or rehabilitating juveniles for productive adulthood.

Numerous studies have been conducted on the predictive value of various juvenile risk-assessments for sexual and non-sexual recidivism. While results have been mixed (Viljoen, 2008, Prentsky, 2010, Rajlic, 2010), there is consensus that offense class is not a predictor of recidivism. Various typologies of juvenile sex offenders have also been assessed for risk of recidivism; two recent studies (Rajlic, 2010 and Kemper, 2007) looked at age of victim and delinquency patterns. While both found some differences in recidivism, sexual reoffending was much lower than non-sexual reoffending, even among high-risk juveniles committed to juvenile correctional facilities.

All of these studies recognized differences among juvenile sex offenders based upon social history, delinquency history, education, sexual abuse history, and developmental stage. In general, the studies found that an individual assessment of risk and appropriate sanctions and treatment were preferable to simply classifying juveniles based upon uniform criteria.

Research has also begun on the effects of sex offender registration on juveniles and adults. Elizabeth Letourneau has conducted several studies of the effects of juvenile registration policies in South Carolina (Letourneau, 2008 and 2009). In one study, she examined recidivism rates for registered and non-registered juvenile sex offenders, finding no significant difference in sexual re-offense rates. In both cases, sexual recidivism was less than 10%.

Letourneau also found that mandatory registration laws may have had an effect on charging and adjudication practices. The results of her analysis suggested that fewer juveniles were adjudicated for mandatory registration offenses after laws requiring registration went into effect. As a policy matter, mandatory registration may reduce the number of juveniles who receive appropriate sanctions and treatment, also potentially reducing public safety. When registration is not based upon a thorough evaluation of risk but rather on uniform, charge-based criteria, potentially high-risk youth may not be identified.

On the other hand, mandatory registration may result in low-risk juveniles being put at risk for the adverse effects of registration, such as continued social stigma and isolation, loss of educational opportunities, loss of employment opportunities, and interference with the development of stable family units (Council of State Governments, 2010).

The Federal Advisory Committee on Juvenile Justice submitted the following recommendations on juvenile sex offender registration as a part of the comment period for changes in the federal rules for SORNA:

1. Mandatory registration laws establish a blanket approach for all ages for a category of crime that includes a wide range of forbidden behaviors. Such application fails to acknowledge research that demonstrates clear differences between adults and juveniles who engage in such behaviors, and who, in many cases, do not present the same risks as adults who commit sex crimes.

2. States that do not exclude juveniles from sex offender registration laws should give judges the discretion to determine at sentencing whether a juvenile adjudicated/convicted of a sex offense should be required to register and, if so, the duration of the registration and any conditions of registration.
3. Mandatory sex offender registry laws remove important discretion from judges and prosecutors. Juvenile court judges and prosecutors are best equipped to evaluate the circumstances of juvenile offenders on an individual case basis and determine the need for registration.
4. With research showing lower rates of recidivism for juvenile sex offenders who receive appropriate treatment, it is imperative to acknowledge treatment as an effective and powerful tool in protecting the community. States should be required to develop guidelines and standards for a system of programs for treatment and monitoring juvenile sex offenders.

Adult Registration

Two recent studies published in the *Journal of Law and Economics* (August, 2011) examined the issue of reducing recidivism by affecting the behavior of previously convicted offenders. J.J. Prescott and Jonah E. Rockoff explored the difference between registration without public notification and with public notification.

Their findings suggested that registration without public notification, such as Internet postings, may decrease subsequent offending. Their hypothesis was that registration was helpful in improving monitoring. On the other hand, they found that public notification actually increased the likelihood of a subsequent offense. They hypothesized that such notification increases stress on the offender, de-stabilizes their community lives, and could lead to a sense that changing behaviors would not improve their life circumstances. (Prescott and Rockoff, *Journal of Law and Economics*, 54:1.)

Amanda Agan examined the issue of whether or not registries increased public safety. She found little evidence that registries, or knowing where sex offenders lived or worked, improved public safety “either in practice or in potential.” (Agan, *Journal of Law and Economics*, 54:1.)

Rachel Bandy has researched the influence of sex offender notification on public behavior, specifically whether or not people engaged in more protective behaviors as the result of notification. She found that, in general, the public did not change behaviors significantly as the result of public access to sex offender information through registries, although the majority of people interviewed approved of registries. (Bandy, *Criminology & Public Policy*, Volume 10, Issue 2.)

It is also widely accepted by researchers that where offenders live and work has little to do with where they are likely to re-offend. And while most sex offender laws such as residency restrictions and registration have been passed in response to “stranger

danger”, most victims, particularly child victims, have been victimized by those known to them—either family members or family friends.

Recidivism

There have been many studies on the subject of sex offender recidivism, often with very different results. These differences can be attributed to study parameters such as the population of offenders studied, length of time to recidivate, definition of recidivism, interventions or treatment modalities, offense type, offender characteristics, etc. The Center for Sex Offender Management (CSOM) published a paper in May 2001 that outlines many of the issues attending research into sexual offender recidivism.

A meta-analysis of 61 studies by R. Hanson, et al published in 1998 found that sexual re-offense was low (13.4%). Their research indicated, however, that certain sub-groups had higher rates. Research done by the Division of Criminal and Juvenile Justice Planning, published in 2000, looked at Iowa sex offenders with a follow-up period of 4.3 years. That study found a sex offense recidivism rate of 3.2%, based upon convictions. Data published by CJJP in 2005 show a subsequent arrest rate for sex offenses at 4.7%, with a 3-year follow-up period.

The extent to which treatment of sexual offenders alters recidivism rates continues to be researched. Early studies suggested that treatment was not effective. However, many of these studies had methodological shortcomings, including variations in the treatment modalities studied, lack of control groups, and small sample sizes. According to data presented in the CSOM paper referenced above, recent meta-analyses have suggested a reduction in sex-offense recidivism for offenders who successfully complete treatment.

Risk Assessments

“Risk assessment is one of the most important and most frequent tasks required of those working with sexual offenders. Formal risk assessments are needed for many important decisions, including sentencing, family reunification, conditional release, and civil commitment. Risk assessment can also assist in the case management and treatment of sexual offenders. Community supervision officers routinely look for signs of imminent relapse. Treatment providers wonder whether their clients are getting better or worse.” (ATSA, January 2000)

There is a significant body of literature on this subject that will not be summarized here. Previous reports from the Sex Offender Research Council contain summaries of some of that research.

However, in 2010 the Iowa Department of Corrections published the results of a study to validate two different tools used to predict recidivism of sex offenders in Iowa, the ISORA8 and the Static-99. Both tools were determined to adequately predict low,

moderate, and high risk offenders and their recidivism rates for sex offenses. (Iowa DOC, January 2010.) Using risk assessments to direct resources to offenders at higher risk, while reducing the use of resources for low-risk offenders would likely improve public safety.

Discussion

The focus of this report is on two issues on public safety and sex offenders—sex offender registration as found in IA Code 692A, and the special sentence for sex offenders found in IA Code 903B.

While there is a growing body of research that suggests there are more effective and cost-effective ways of monitoring sex offenders, both juvenile and adult, than the current sex offender registration system, it would be difficult for individual states to make any substantive move in adopting new practices. The federal Adam Walsh Act will continue to have a substantial impact on how states can legislate and manage sex offender registries. Additionally, public support for registries, even if such support does not translate into more protective behaviors, will be difficult to shift. There is also the difficulty in moving public perception away from the view that the greatest risk of child victimization is from strangers to the evidence-based reality of victimization being primarily from family and friends. There needs to be targeted efforts to educate the public about the reality that sex offender registration does little to reduce victimization by those closest to children.

Therefore, making any changes in Iowa's registration law is dependent upon a collaborative effort of the states and the federal government. As states continue to provide comment on the federal Adam Walsh Act, Iowa should use that forum to support changes that are based upon research and evidence from a broad variety of sources.

However, based upon the data from Iowa's correctional and judicial systems, one of the major contributors to changes across the system in Iowa is the special sentence. As a result of the addition of 10-year and life-time parole to sex offenders after completing their original sentences, the prison population has increased, community-based corrections will be strained, and local law enforcement will be responsible for monitoring and registering an increasing number of registrants.

Effect on CBC. The number of offenders under current law with 10-year special sentences is expected to continue to increase for another six years before leveling. The number of offenders who will be on life-time supervision will continue to increase at least through the year 2021.

Using an average total parole caseload of 2,890 at the end of FY2011, it is estimated that by the year 2021, the average parole caseload will increase to 5,151, of whom about 2,600 or 50% will be supervised on special sentences. This estimate is based upon assumptions that the non-special sentence parolee numbers will remain constant, and that a certain percentage of special sentence parolees will be revoked to prison. The special sentence, particularly life-time supervision, will increase the parole caseload by 78% in ten years.

The Department of Corrections estimates the cost of residential supervision at \$11.50 per day and regular supervision at \$3.49 per day. Sex offender supervision average cost is \$15.89 a day. GPS monitoring adds an additional \$5.00 per day. If one assumes that the projected 2,600 persons on special sentence supervision were being supervised at the minimum level at today's cost, the special sentence cost per day would be \$9,074, or \$3,312,010 per year. However, most are likely to be on the higher intensity sex offender supervision. Using that scenario, the special sentence per day cost would be \$41,314, and the annual cost would be \$15,079,610. Some of these offenders will also be on GPS monitoring, at least for part of the time, further increasing the daily and annual expenditures.

Effect on the Prison Population. The special sentence also has an impact on the prison population. The number of revocations has increased since the first offenders were placed on special sentences. The first revocation of a special sentence has a prison term of two years, while second and subsequent revocations are for prison terms of five years. Estimates show that special sentence revocations not based upon new offenses will be the largest contributor to increases in the prison population of sex offenders as the number of new commitments for sex offenses has been stable or decreasing.

The special sentence has also had an apparent effect on Board of Parole practices. Before the imposition of special sentences, there was some reason to parole sex offenders so that they would have a period of time of supervision to help transition them into community life. Now that all sex offenders, whether on probation or incarcerated, are placed on parole after completing their sentences, there is less incentive for the Board to grant parole to offenders with sex offenses. A greater percentage are expiring their sentences, increasing the median length of stay in prison.

The median length of stay for sex offenders has increased 3.9 months since FY2005. At a marginal rate of \$15.59 at today's prices, this increase in length of stay translates into an additional \$1,825 per release. Assuming an average number of 200 releases per year, the increased length of stay costs \$364,806 per year.

Effect on the Sex Offender Registry. Length of registration is partially tied to the length of the special sentence. In other words, although an offense may be one that requires 10-registration, if there is also a life-time special sentence, the offender will have to register for life. This will increase significantly the number of individuals on the Registry,

increasing the number of persons whose information must be verified, and the number of times offenders will need to report.

Although the Iowa Department of Public Safety does not anticipate that this increase in numbers will have a financial impact upon that agency, it is recognized that the burden will fall on local law enforcement and county sheriffs. A financial impact is likely; however, exact numbers are not known at this time.

Recommendations

After considering the information as provided above, the Sex Offender Research Council makes the following recommendation to the Iowa General Assembly.

There is sufficient evidence that sex offenders and the public benefit from a period of supervision and treatment/relapse prevention support in the community, particularly after incarceration. However, the current policy of set terms of post-sentence parole is not supported by research, is not the most effective use of limited resources, and does not contribute to increased public safety.

Therefore, it is recommended that IA Code 903B be amended to establish 1) a minimum number of years on post-sentence parole, 2) a required review of each offender's progress and risk every *X* number of years, and 3) that an extension of parole past the review date would require proof of risk of sexual or violent re-offense. The SORC does not recommend a minimum parole term or review cycle at this time, but recommends that they be based upon a further review of the literature and best practices.

Further, as the Division of Criminal and Juvenile Justice Planning, Department of Human Rights has lost the funding for support of the Sex Offender Research Council, the SORC recommends that the General Assembly appropriate sufficient funds to support a position to continue research on best practices for the management of sex offenders in Iowa.

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