

March 2005

INVOLUNTARY COMMITMENT OF SEXUALLY VIOLENT PREDATORS: COMPARING STATE LAWS

In 1990, the Washington State Legislature passed a new form of involuntary commitment for sex offenders identified as “sexually violent predators” (SVPs). This law permits the state to retain custody of individuals found by a judge or jury to pose risks for reoffending. Since Washington’s enactment, 16 other states have adopted similar laws. Texas requires outpatient treatment rather than confinement; Pennsylvania law pertains only to 20-year-olds “aging out” of the juvenile system.

This paper summarizes key features of the SVP laws, focusing on three questions:

- How many individuals have been held under these laws?
- How many have been released under some form of less restrictive alternative?
- What are the program costs?

STATE COMPARISONS

Although state laws for SVPs have common elements, the organizational structure and facility operations in each state vary greatly. As such, making comparisons is not easy. Key differences include:

- **Breadth of the Law.** Some states have restricted the SVP laws to a narrow group of sex offenders, whereas other states’ laws apply to a larger pool. For states with a broader pool of eligible offenders, for example Arizona, it is not surprising to see proportionally higher numbers of persons both held under the law and discharged/released.
- **Release/Discharge Decision.** Some states require a judge/jury to authorize release; in others, the decision is made at an administrative level.

SUMMARY

Seventeen states have laws that authorize confinement of sex offenders identified as “sexually violent predators.” This paper focuses on three questions:

Number of Persons Held Under SVP Laws

As of December 2004, 3,493 persons have been held for evaluation as an SVP or committed for treatment.

Number of Persons Released Under Some Form of Less Restrictive Alternative

As of December 2004, 427 persons were discharged or released.

SVP Program Costs

It is difficult to directly compare reported costs for state SVP programs. The service delivery models vary across states. Frequently, budget figures are spread across multiple parts of state government and not pro-rated to capture the SVP program portions.

- The cost of operating secure facilities for committed SVPs in the United States is at least \$224 million annually.
- States with small numbers of program residents will naturally have higher costs per resident.

Table 1 provides information on the state laws and numbers of individuals held since the law went into effect, released, and revoked. We use the term “held since the law went into effect” rather than “committed,” because it provides a more accurate reflection of the scope of the law’s application. In many states, individuals are sent to the treatment facility for evaluation and may choose to wait some time before proceeding with the commitment hearing.

COSTS OF SVP LAWS

The full costs of an SVP law are typically spread across a state’s budget.

For this document, we requested staff to report the estimated costs for housing, supervision, and treatment. Legal costs, risk screening, and conditional release costs were not to be included to facilitate comparison across states. For some states, this cost separation was feasible; for others, budget categories overlapped and it was difficult. Consequently, we concluded that these cost comparisons are likely to have hidden flaws and should not be taken at face value.

A comprehensive comparison of costs would necessitate structured interviews with state staff who have sufficient time to dedicate to the task. At a minimum, cost categories would need to be aligned in the following areas:

- Treatment
- Security and supervision
- Direct care (such as food, clothing, supplies)
- Healthcare
- Contracted services
- Legal services
- Psychological evaluation
- Transportation
- Administrative overhead
- Capital costs and/or debt service

Table 2 (page 6) reports on cost information by state. Two conclusions emerged:

- The cost of operating secure facilities for committed SVPs in the United States is at least \$224 million annually.
- States with small numbers of program residents will naturally have higher costs per resident.

Table 1
**INVOLUNTARY CIVIL COMMITMENT OF
SEXUALLY VIOLENT PREDATORS: STATE-BY-STATE COMPARISON**
Program Descriptions and Commitment Data

| STATE CODE (YEAR LAW EFFECTIVE) | TREATMENT FOLLOWING COMMITMENT | TREATMENT PROVIDER | NUMBER HELD SINCE LAW WENT INTO EFFECT* | NUMBER DISCHARGED OR RELEASED | NUMBER REVOKED SINCE RELEASE |
|---|--|---|--|--|---------------------------------------|
| Arizona ARS 36-3774 et seq. (1996) | Placed in custody of the Department of Health Services. If appropriate, a judge may grant conditional release to a less restrictive alternative. | Department of Health Services, Arizona Community Protection and Treatment Center | 332 | 221 | 7 |
| California WIC 6600 et seq. (1996) | First four phases are inpatient. Fifth phase is during conditional release. Treatment duration is competency-based, not time limited. | Department of Mental Health, Atascadero State Hospital (moving to Coalinga State Hospital). Contracts with Liberty Behavioral Health Corporation for Community Aftercare Program. | 495 | 67 | Not Available |
| Florida SVP law was relocated to ss394.910-394.931, Part V, Florida Statutes, in 1999 | Secure residential-phased program. Final phase, transition, determined by courts. | Department of Children and Families, Florida Civil Commitment Center on grounds of Desoto Correctional Institution. Contracts with Liberty Behavioral Health Corporation. | 662 | 11 | 2 |
| Illinois 725 ILCS 207/1 et seq. (1998) | Least restrictive manner appropriate. Judge has discretion to order institutional care or conditional release with necessary treatment services. | Department of Human Services, Treatment and Detention Facility. Contracts with Liberty Behavioral Health Corporation for some treatment staff. | 228 | 15 | 3 |
| Iowa 229.A1 et seq. (1998) | Secure, long term, and highly structured five-phase program. | Department of Human Services | 42 | 0 | 0 |
| Kansas 59-29a01 et seq. (1994) | Committed to Social and Rehabilitation Services for placement in secure facility. Right to petition for discharge at annual review. | Department of Social and Rehabilitation Services, Sexual Predator Treatment Program, Larned State Hospital | 129 | 18 | 14 |

| STATE CODE (YEAR LAW EFFECTIVE) | TREATMENT FOLLOWING COMMITMENT | TREATMENT PROVIDER | NUMBER HELD SINCE LAW WENT INTO EFFECT* | NUMBER DISCHARGED OR RELEASED | NUMBER REVOKED SINCE RELEASE |
|---|---|---|--|--|---------------------------------------|
| Massachusetts Part I Title XVII, Chap. 123A 1 et seq. (1998) | Committed to a secure treatment center. May apply for community access program. | Department of Corrections; Treatment Center for Sexually Dangerous Persons at Bridgewater State Hospital | 306 | 4 | 0 |
| Minnesota 253B.185 et seq. (1994) | Least restrictive treatment program that can meet the SVP's and society's needs. Secure phased program. | Department of Human Services | 235 | 1 | 1 |
| Missouri 632.480 et seq. (1999) | Committed to custody in a secure facility until the SVP is safe to be at large. Right to petition for release at annual review. | Department of Mental Health with security costs shared by the Department of Corrections | 82 | 6 | 0 |
| New Jersey 30:4-27.24 et seq. (1994) | Involuntary commitment to secure facility. Department can recommend conditional discharge if likely to comply with treatment plan, but the order is at the court's discretion. | Department of Human Services. Department of Corrections operates a temporary facility at the Northern Regional Unit (Kearny). | 311 | 0 | 0 |
| North Dakota 25.03-3.01 et seq. (1997) | Committed to the custody of Department. Director assigns the least restrictive treatment facility or program necessary. | Department of Human Services | 28 | 0 | 0 |
| Pennsylvania SB421 (2003) | For 20-year-olds who are "aging out" of the juvenile system who are found to pose a high risk of reoffending. Committed to a facility designated by the Department. | Department of Public Welfare. Southwest Secure Treatment Unit at Torrance State Hospital. Contracts with Liberty Behavioral Health Corporation for Executive Director. | 4 | Not Available | Not Available |
| South Carolina 44-48-10 et seq. (1998) | Committed to the custody of the Department of Mental Health at an inpatient secure facility. Right to petition for release at annual review. | Department of Mental Health, Behavioral Disorders Treatment Program | 86 | 15 | 0 |

| STATE CODE (YEAR LAW EFFECTIVE) | TREATMENT FOLLOWING COMMITMENT | TREATMENT PROVIDER | NUMBER HELD SINCE LAW WENT INTO EFFECT* | NUMBER DISCHARGED OR RELEASED | NUMBER REVOKED SINCE RELEASE |
|--|--|--|--|--|---------------------------------------|
| Texas Health and Safety Code 841.001 et seq. (1999) | Outpatient group twice per week, individual twice per month; treatment begins upon release from prison; entitled to a biennial review; entitled to file unauthorized petition for release. | Outpatient treatment managed by Council on Sex Offender Treatment; administered by Department of Human Services (direct services are contracted) | 41 | Not Applicable | Not Applicable |
| Virginia 37.1-70 et seq. (2004) | Committed to the custody of the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services. Residents have an annual review before the court in the committing jurisdiction for the first five years; every two years thereafter. | Department of Mental Health, Mental Retardation and Substance Abuse Services, Virginia Center for Behavioral Rehabilitation | 10 | 0 | 0 |
| Washington 71.09.010 et seq. (1990) | Detained at secure facility for evaluation and treatment. Right to petition for less restrictive alternative or SVP status at any time. Transition release facilities available (phase 6). | Department of Social and Health Services, Special Commitment Center and Transitional Facilities | 220 | 13 | 1 |
| Wisconsin 980.01 et seq. (1994) | Institutional care at a secure mental health facility. Person may petition for supervised release 18 months after initial commitment. | Department of Health and Family Services, Sand Ridge Secure Treatment Center | 282 | 56 | 16 |
| Total | | | 3,493 | 427 | 44 |

* Projected through December 31, 2004.

Table 2
**INVOLUNTARY CIVIL COMMITMENT OF
SEXUALLY VIOLENT PREDATORS: STATE-BY-STATE COMPARISON**
Program Costs as Reported by States*

| STATE | COST PER DAY PER CLIENT | COST PER YEAR PER CLIENT | ANNUAL SALARY AND BENEFITS OF TREATMENT OFFICER | PROJECTED TOTAL ANNUAL PROGRAM COST (IN MILLIONS) |
|---|------------------------------------|-------------------------------------|--|--|
| Arizona | \$220.00 | \$80,300 | \$37,360 | \$9.7 |
| California | \$293.00 | \$107,000 | \$56,492 | \$45.5 |
| Florida | \$137.00 | \$50,005 | \$39,176 | \$21.5 |
| Illinois | \$227.40 | \$83,000 | \$45,000 | \$19.0 |
| Iowa | \$182.07 | \$66,456 | \$55,500 | \$2.5 |
| Kansas | \$145.41 | \$53,075 | \$26,977 | \$6.6 |
| Massachusetts | \$136.99 | \$50,000 | \$50,000 | \$15.1 |
| Minnesota | \$314.00 | \$109,000 | \$47,000 | \$19.3 |
| Missouri | \$168.00 | \$61,320 | \$33,178 | \$6.8 |
| New Jersey | \$164.04 | \$59,939 | \$50,000 | \$16.7 |
| North Dakota | \$267.89 | \$97,780 | \$35,014 | \$3.2 |
| Pennsylvania (juveniles only) | Not Available** | Not Available** | Not Available** | \$2.5 |
| South Carolina | \$34.74 | \$12,680 | \$18,922 | \$1.2 |
| Texas (outpatient) | \$20.83 | \$31,000 | \$6,000 – 7,000 | \$0.5 |
| Virginia | \$220.00 | \$80,000 | \$125,000 | \$6.0 |
| Washington | \$289.00 | \$105,665 | \$104,026 | \$23.3 |
| Wisconsin | \$273.97 | \$100,000 | \$53,353 | \$24.7 |

* Cost figures represent states' reports and are not adjusted to take account of significant differences among states.

** Not applicable due to small enrollment.

APPENDIX A: OTHER SURVEYS

During the preparation of this report, we learned about other efforts to compare state SVP programs. These include:

- (1) **Kansas:** Survey of Sexual Predator Treatment Program Issues, Kansas Social and Rehabilitation Services, July 2004. This is a work in progress. As of early October 2004, only five states fully responded to the survey. It is a several page Word document and asks for detailed information regarding client demographics, program descriptions and costs by budget category. The contact person for this survey is Lizz Phelps, J.D, SRS/Health Care Policy, Lmp@srskansas.org, (785) 296-4552.
- (2) **Maryland:** Fitch, W. L. 2003. "Sexual Offender Commitment in the United States: Legislative and Policy Concerns." *Annals of the New York Academy of Sciences* 989: 489-501. This article presents the results of (including cost data from): W.L. Fitch and D. Hammen. 2002. *Sex Offender Commitment: A Survey of the States*. Unpublished Manuscript. A summer 2004 update of data is planned. The contact person for this survey Larry Fitch, fitchl@dhmh.state.md.us/.
- (3) **Texas:** State-by-state comparison of the involuntary civil commitment of sexually violent predators, August 2003. The data pertaining to Texas were updated in a June 2004 version conducted by the Texas Council on Sex Offender Treatment (CSOT).

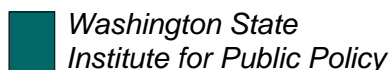
APPENDIX B: CONTACTS

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The Institute wishes to thank Kathleen Gookin, an Olympia-based consultant, who conducted the survey of states.

Document No. 05-03-1101



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