



OJP FACT SHEET

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Sex Offenders

Who Are Sex Offenders?

Sexual assault includes a wide range of behavior and generally describes sexual actions or words unwanted or harmful to a person. Common terms used interchangeably with sexual assault are sexual abuse and sexual violence.ⁱ This fact sheet focuses on offenders convicted of criminal sexual conduct.

Under Minnesota law, criminal sexual conduct offenses range from first to fifth degree, with first degree carrying the most severe penalties. First- through fourth-degree criminal sexual conduct are felony-level offenses and fifth degree is a gross misdemeanor-level offense.ⁱⁱ

Degree of criminal sexual conduct is based on a combination of elements including:ⁱⁱⁱ

- If there was sexual penetration or contact
- Victim's age
- Relationship of the victim to offender (position of authority, significant other, therapist, etc.)
- Degree of injury or threat of injury
- Whether a weapon was involved
- Whether force was involved
- Mental impairment or incapacity of victim.

Sex Offenders in the United States

- In 2001, about 118,500 individuals were in state prisons for rape or other sexual assault.^{iv} Rape and sexual assault offenders account for nearly 5 percent of the correctional population.^v
- In 1998, about 265,000 convicted sex offenders were under care, custody or control of corrections agencies, and of these nearly 60 percent were under conditional supervision in the community.^{vi}
- About two-thirds of convicted rape defendants received a prison sentence, 19 percent were sentenced to a term in a local jail, and 13 percent

received a probationary sentence (Bureau of Justice Statistics). Average sentence for rape defendants sent to prison was nearly 14 years, average jail term was 8 months, and average probation term was nearly 6 years. About 2 percent of convicted rapists received life sentences.^{vii}

- Sex offenders are spending more time in prison. From 1985-1993, the average time served by convicted rapists increased from 3 1/2 years to 5 years. For the same period, the average time served by offenders convicted of sexual offense crimes other than rape increased by 6 months to almost 3 years.^{viii}
- Most violent sex offenders have a history of criminal activity. An estimated 61 percent of violent sex offenders in state prisons have a prior conviction history that included a sentence to probation or incarceration. An estimated 1 in 4 imprisoned sex offenders had a prior history of conviction for violent crimes and 1 in 7 had a previous conviction for a violent sex crime.^{ix}

Recidivism and Sex Offenders

A 2003 Bureau of Justice Statistics study of almost 9,700 sex offenders released from state prison during 1994 found that:^x

- Within 3 years of release from prison, sex offenders were more likely to be rearrested for a sex offense than non-sex offenders (5.3 percent versus 1.3 percent), but less likely to be rearrested for any offense (43 percent versus 68 percent).^{xi}
- Before serving time in prison, most offenders had been arrested for various crimes. The more arrests, the greater likelihood of re-arrest for another sex crime after leaving prison.^{xii}
- Within 3 years of release from prison, 38.6 percent of sex offenders were returned to prison, as a result of a new crime or technical parole violation.

- The older the prisoner at the time of release, the less likely they were to re-offend; the lowest recidivism rates were for sex offenders age 45 or older.

A study by the Department of Solicitor General of Canada identified factors strongly related to recidivism. Sexual offense recidivism was best predicted by measures of sexual deviancy (i.e. deviant sexual preferences, prior sex offenses). Overall, recidivism rate was 13.4 percent (out of 23,393 offenders). Offenders who fail to complete treatment programs are at increased risk for both sexual and general recidivism.^{xiii}

Treatment of Sex Offenders

The majority of sex offender treatment programs in the United States and Canada use a combination of cognitive-behavioral, and relapse-prevention techniques. Treatment effectiveness is related to type of sexual offender (incest offenders tend to do better in treatment than those convicted of assaults against non-family members), treatment model, and related interventions involved in probation and parole community supervision.

In a meta-analysis of treatment outcome studies (1995), there was an 8 percent reduction in the recidivism rate for offenders who participated in treatment.^{xiv}

A review of 43 studies (9,400 sex offenders) examined effectiveness of treatment. Overall recidivism rate was lower for treatment groups (12.3 percent) than comparison groups (16.8 percent). Current treatments were associated with reductions in both sexual recidivism (17.4 to 9.9 percent) and general recidivism (from 51 to 32 percent).^{xv}

The studies suggest that sex offense recidivism among sex offenders is not only varied but lower than popular belief and that treatment is a positive factor in reducing recidivism.

National estimates for 1 year of intensive supervision and treatment in the community can range from \$5,000 to \$15,000 per offender depending on treatment modality, whereas the average cost of incarcerating an offender is \$22,000 per year, excluding treatment costs.^{xvi} A cost-benefit analysis of the rehabilitation of child molesters at the Massachusetts Treatment Center found that not only was treatment less costly than incarceration, but the savings multiplied when

recidivism rates for treated (25 percent) versus untreated offenders (40 percent) were factored in.^{xvii}

Development of Sentencing Practices for Sex Offenders in Minnesota

In 1980, Minnesota adopted a sentencing guidelines system to create uniform sentencing policy for felony-level offenders. The guidelines recommend sentences based on severity of the offense of conviction and the offender's criminal history. Judges may depart from recommended sentences if circumstances of the case are substantial and compelling. The court must provide an explanation for departure and the sentence may be appealed.

Under the guidelines, the pronounced sentence is fixed and there is no parole board to grant early release from prison. An offender sentenced to prison serves a term of imprisonment equal to at least two-thirds of the sentence and a supervised release term equal to the remaining portion. Sentencing enhancements in Minnesota from 1989-2002 include:^{xviii}

- 1989 — Sentences were doubled for offenders determined to be a “patterned predatory offender.” Long-term supervision upon release is required^{xix}. (Minn. Statute 609.108.) The court must consider sentencing under the patterned predatory offender law when an offender is convicted of criminal sexual conduct in the first or second degree.
- 1992 — Life imprisonment for sex offenders convicted of first-degree criminal sexual conduct if any of the following circumstances exist:
 - Offender sentenced previously as a patterned predatory offender.
 - Offender previously convicted (before August 1989) of criminal sexual conduct in first, second or third degree and sentenced to at least twice the presumptive sentence.
 - Offender has two previous convictions for criminal sexual conduct in first, second or third degree and was discharged from the sentence for the most recent prior conviction within the past 15 years (Minn. Stat. 609.109).
- 2000 — First-degree criminal sexual conduct offenders are subject to a presumptive prison sentence of 144 months.

Sentencing Practices for Felony Criminal Sexual Conduct in Minnesota

In 2002, 95 percent of offenders sentenced for felony criminal sexual conduct received sentences that included

incarceration in prison (35 percent) or jail (60 percent).^{xx} (See Chart A)

In 2002, 93 percent of felony sex offenders sentenced to probation also received pronounced jail time as condition of probation.^{xxi} More than three-quarters of sex offenders convicted of first-degree criminal sexual conduct were sent to prison for an average sentence of 155 months.^{xxii} (See Charts B & C)

Sex Offenders in Minnesota

As of July 2003, there were 7,568 adult inmates in Minnesota's prison system. Of these, 1,246 prisoners had a sex offense as their commitment offense, more than double the number in 1990. However, approximately 2,500 (about 33 percent) of offenders in prison had a sex offense as part of their criminal history. (See Chart D)

Inmates with a sex offense as their most serious offense in Minnesota make up 16.5 percent of the total adult inmate population. (See Chart E)

Minnesota Predatory Offender Registry

The abduction of 11-year-old Jacob Wetterling from St. Joseph in 1989, spurred the Legislature to enact the Predatory Offenders Registration Law. Since July 1991, offenders have been required to register their address with a local law enforcement or probation agency. The registry is accessible to law enforcement agencies and criminal justice officials for crime investigation. The BCA was designated as repository of the registry.

Since 1991, the number of offenders on the registry has increased dramatically, from about 300 in 1991 to nearly 13,000 in 2003, mainly due to legislative changes regarding registration. The number of offenses that could trigger registration of a person as a sex offender grew from seven in 1991 to 41 in 2003. Changes include:

- Addition of minors to the registry and registration of offenders from other states.
- In 1993, a statutory change required offenders charged with criminal sexual conduct but convicted of another offense from the same set of circumstances to register, resulting in a major increase in the number of registered offenders.
- As the result of the abduction of Katie Poirier in 2000, two provisions were added: lifetime registration of some sex offenders and loss of credit for previous time

served on the registry if the offender was incarcerated for a new offense.

Level One

Level One offenders are determined to be at lower risk to re-offend. Local law enforcement agencies may keep a file on these offenders and provide information about the release of the offender to victims and witnesses to the crime, law enforcement agencies and anyone identified by the prosecuting attorney to receive the information

Level Two

Level Two offenders are determined to be at moderate risk to re-offend. In addition to those listed under Level One, organizations such as schools, daycare centers and places where individuals who might become victims are regularly found, may be provided information. Law enforcement may notify individuals who may be at risk from the offender, but community notification is not required.

Level Three

Level Three offenders are at highest risk to re-offend. Law enforcement agencies must notify everyone listed under Levels One and Two and may distribute information about the offender to the community. Media may be used to inform the public, and law enforcement may hold public meetings in the community where the offender resides. A photograph of the offender, the general area where the offender lives, and the offender's known pattern of behavior may be released.

Community Notification

In 1996, the Legislature passed the Community Notification Law (Minn. Statute 244.052) which allows release of information about certain offenders so the community can prepare for their release. Previously, most information on offenders was available only to local law enforcement agencies and criminal justice personnel. The Department of Corrections, through the End of Confinement Review Committee, assigns a risk level to offenders due for release.^{xxiii} The amount of information released to the public depends upon the offender's assigned risk level.

DOC was mandated by Katie's Law (August 2000), to create and maintain a Web site containing information about Level Three sex offenders living in communities.

Since community notification in 1997, DOC has assigned a risk level to more than 2,800 sex offenders; 2,134 have been released and are living in communities. The rest are incarcerated, civilly committed or deceased. (See Chart F)

From January 1997 to December 15, 2003, 386 offenders were assigned a risk level of three. Of these, 188 were referred by DOC for civil commitment, resulting in 104 civil commitments.

Currently, DOC releases an average of 450 sex offenders into the community each year, of which 45^{xxiii} are Level Three offenders.^{xxiv}

Minnesota's Sex Offender Treatment Program

Minnesota has had statutes governing civil commitment of "psychopathic personalities" since 1939. In 1995, modifications were made in existing statutes, and the Legislature created two specific categories for which individuals could be committed as a sex offender:

- "Sexual Psychopathic Personality" (Minn. Statute, section 253B.02, subdivision 18b) refers to any person with a habitual misconduct in sexual matters, and utter lack of power to control their sexual impulses, therefore is dangerous to other persons.
- "Sexually Dangerous Person" (Minn. Statute, section 253B.02, subdivision 18c) is a person who has engaged in harmful sexual conduct with an individual; has manifested a sexual, personality, or other mental disorder or dysfunction; and is likely to engage in harmful sexual conduct in the future.

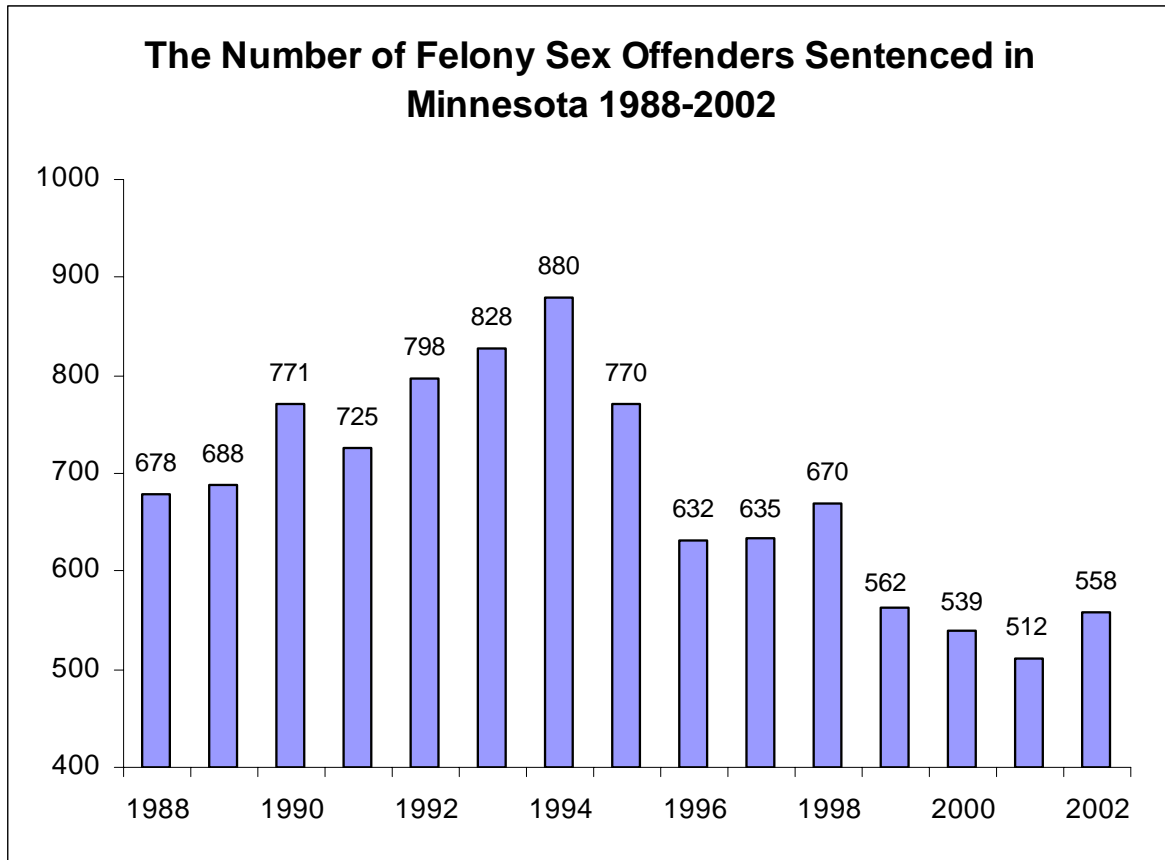
Minnesota's sex offender treatment program is operated by the Department of Human Services. The program receives most admissions through the civil commitment process. The program provides intensive residential treatment in a secure setting and includes:

- 150 beds in Moose Lake
- 75 beds in St. Peter
- 50 beds in the Moose Lake Correctional facility where DHS staff provide treatment.

As of October 2003, there were 200 people in the program (150 at Moose Lake and 50 at St Peter).

Annual operating budget for the program in fiscal year 2004 is \$22,660,620 (including direct and indirect costs) and per diem cost of care is \$314.

Chart A



Source: Minnesota Sentencing Guidelines Commission

Chart B

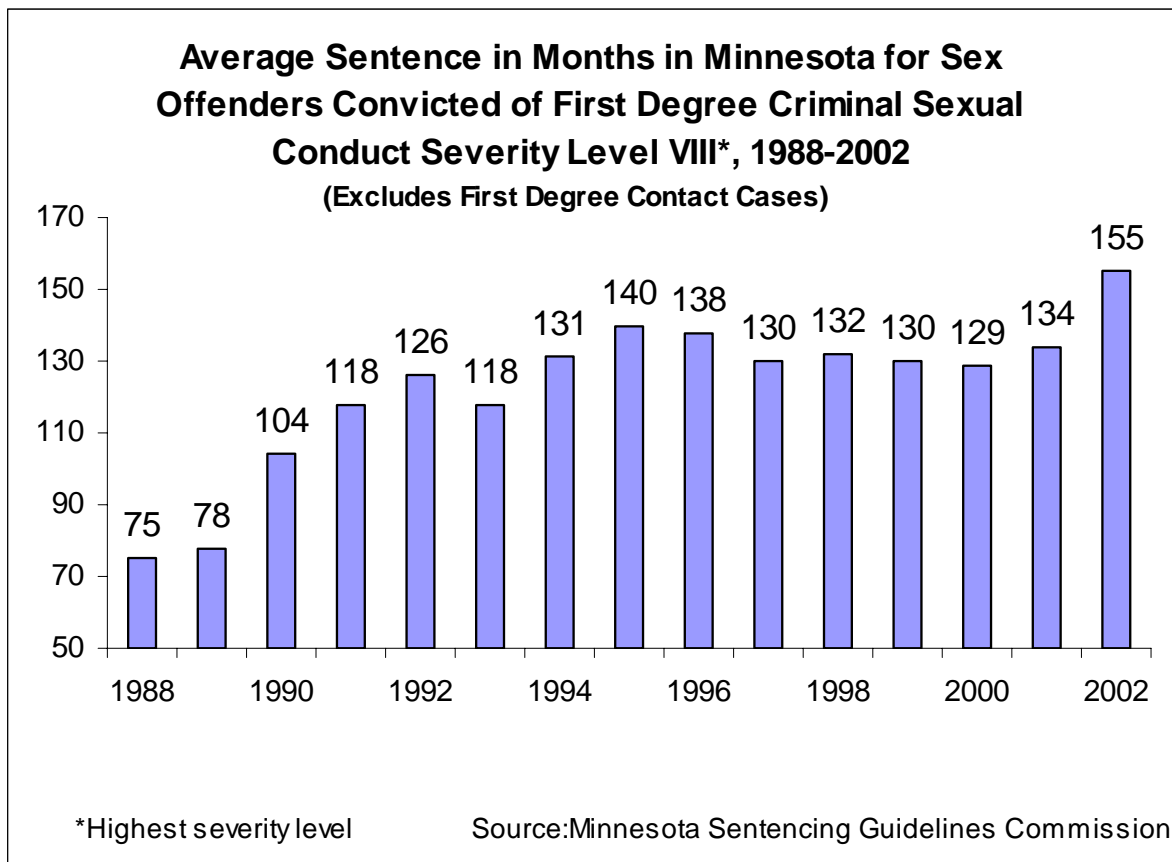


Chart C

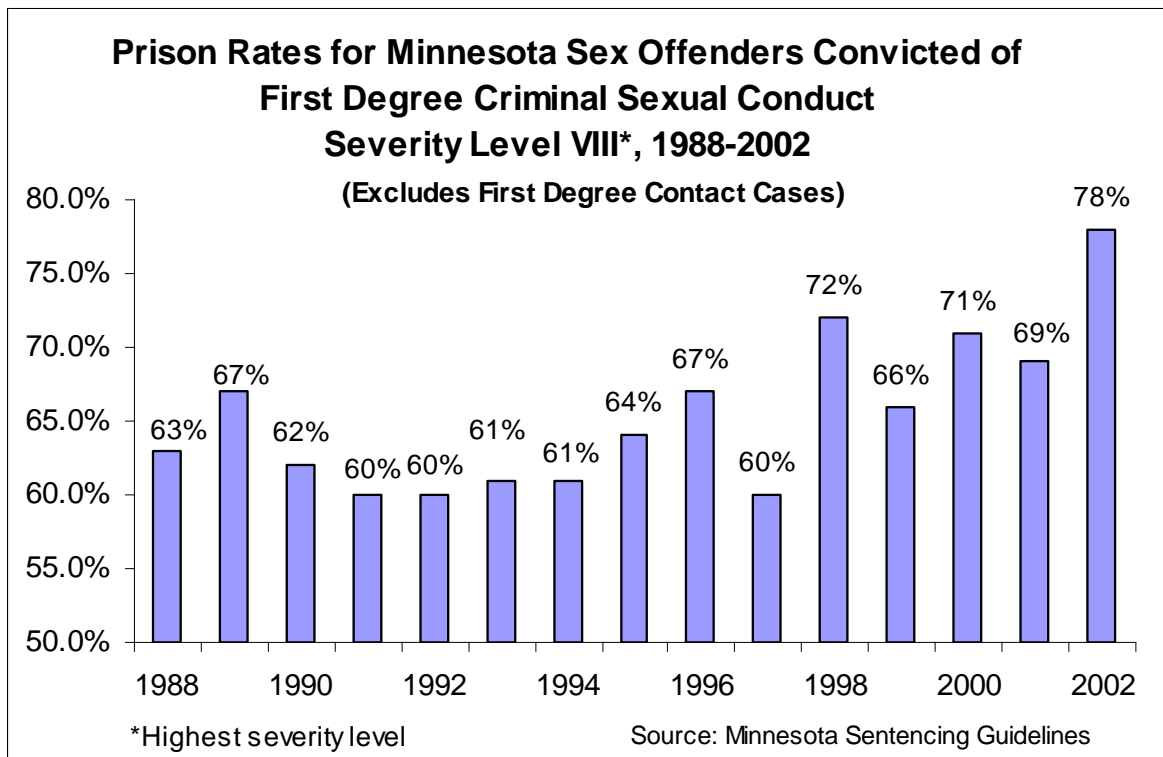


Chart D



Chart E

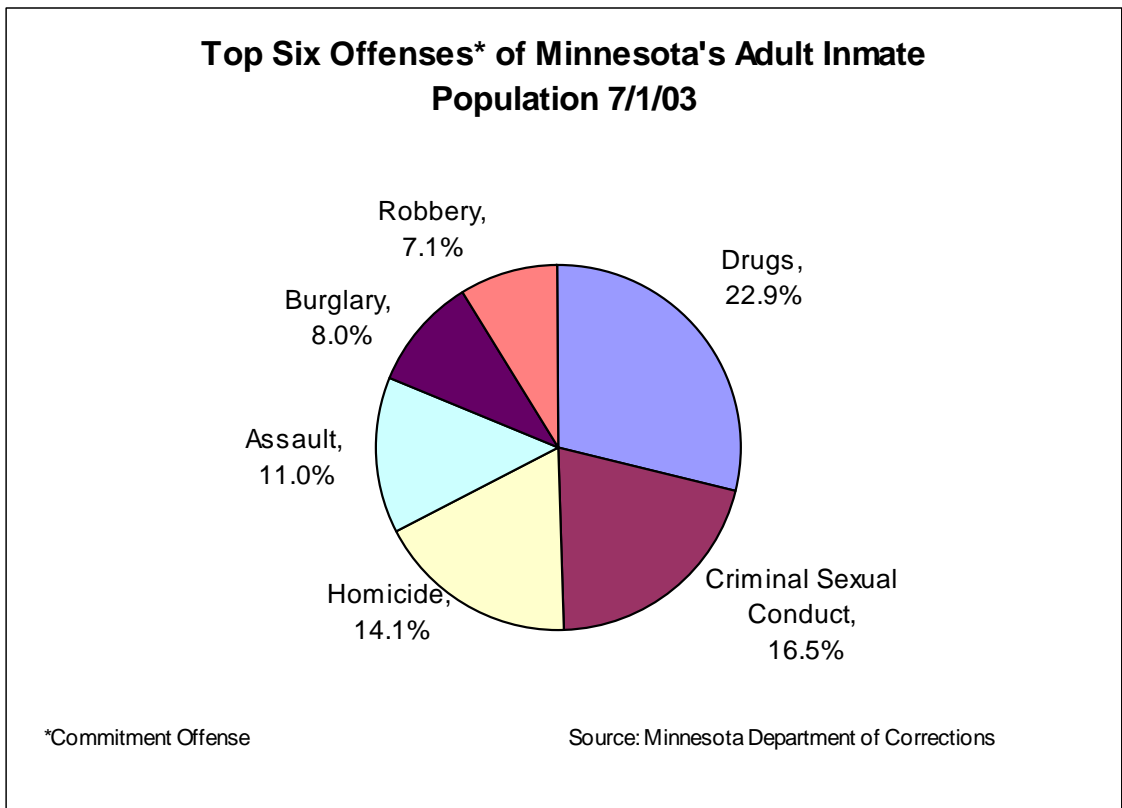
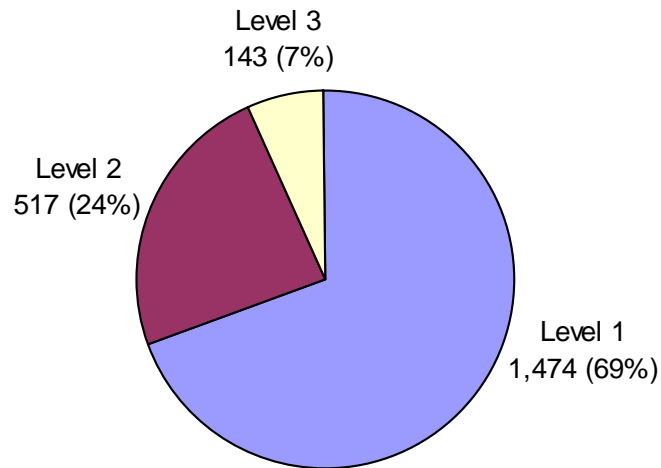


Chart F

**Number of Sex Offenders Assigned a Risk Level,
Released from Prison and Living in Minnesota
Communities 2003**



Source: Minnesota Department of Corrections

¹ Minnesota Department of Health.

- ⁱⁱ Certain repeat violations of fifth degree are classified as felonies.
- ⁱⁱⁱ Minnesota Sentencing Guidelines Commission, "Sentencing Practices Criminal Sexual Conduct Offenses Offenders Sentenced in 2001."
- ^{iv} Bureau of Justice Statistics, "Prisoners in 2002".
- ^v Bureau of Justice Statistics, "Sex Offenses and Offenders," 1997.
- ^{vi} Center for Sex Offender Management, "Myths and Facts about Sex Offenders," 2000, Silver Spring, MD.
- ^{vii} Bureau of Justice Statistics, "Sex Offenses and Offenders," 1997.
- ^{viii} Ibid.
- ^{ix} Ibid.
- ^x Bureau of Justice Statistics, "Recidivism of Sex Offenders Released from Prison in 1994" 2003.
- ^{xi} Ibid.
- ^{xii} Ibid.
- ^{xiii} Hanson et al, "Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies." 1998
- ^{xiv} Hall, "Sex Offender Recidivism Revisited: A Meta-Analysis of Recent Treatment Studies," *Journal of Consulting and Clinical Psychology* 63 (1995).
- ^{xv} Hanson et al, "First Report of the Collaborative Outcome Data Project on the Effectiveness of Psychological Treatment of Sex Offenders." 2002.
- ^{xvi} Center for Sex Offender Management, "Myths and Facts about Sex Offenders." 2000, Silver Spring, MD.
- ^{xvii} Prentky et al, "Rehabilitation of Child Molesters: A Cost-Benefit Analysis." 1990.
- ^{xviii} Minnesota Sentencing Guidelines Commission, "Minnesota Criminal Sentencing Enhancements 1987-2002."
- ^{xix} Minn.Stat. 609.108 The determination that an offender is a patterned or predatory sex is based upon the offense history of the offender and the severity of the current offense. A patterned sex offender is considered a danger to the public and has such engrained criminal sexual behavior that the risk of re-offending is great without intensive psychotherapeutic intervention or long term controls.
- ^{xx} Does not include offenders who were revoked from probation or supervised release and sent back to prison in a given year.
- ^{xxi} Minnesota Sentencing Guidelines Commission, "Sentencing Practices Criminal Sexual Conduct Offenses Offenders Sentenced in 2002."
- ^{xxii} Includes first degree cases at severity level VIII, the highest severity level. Excludes first-degree contact cases.
- ^{xxiii} Initial releases, not re-releases (offenders who violate the terms of their release either by committing a new offense or by technically violating the terms of their release. These offenders are returned to prison).
- ^{xxiv} Minnesota Department of Corrections.