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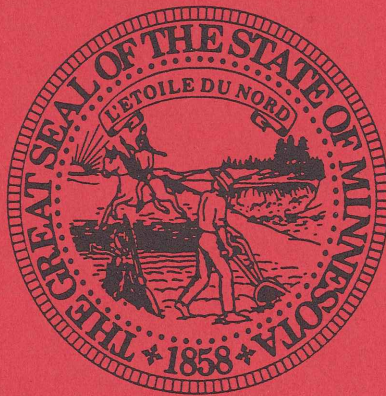
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Attorney General's Task Force on the Prevention
of Sexual Violence Against Women

FINAL REPORT

February 15, 1989



Hubert H. Humphrey III
Attorney General

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ON THE PREVENTION OF
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ACKNOWLEDGEMENT:

We would like to thank all of the people who came forward to testify or participate in the working sessions of the Task Force and all of the persons and groups who offered suggestions and comments on the preliminary reports issued by the Task Force. Their contributions were essential to the success of this project.

We would also like to thank Honeywell Inc., Dayton/Hudson, Inc., the Minneapolis Foundation and the Emma B. Howe Memorial Foundation for the financial support which enabled the Task Force to hold public hearings throughout the State and publish its reports.

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INTRODUCTION

In the spring of 1987, Kathleen Bullman, Angela Green and Angeline Whitebird-Sweet were found sexually mutilated, beaten and murdered. The same predator has been charged with all of these brutal crimes.

On May 27, 1988, Carrie Coonrod, a 19-year old student on her way to a job interview, was raped and stabbed to death in a downtown Minneapolis parking lot. Her alleged killer, a convicted sex offender, had recently been released from prison.

On June 12, 1988, Mary Foley was raped and strangled by a repeat sex offender in the parking ramp of her employer. When the murderer entered a guilty plea three months later, he admitted that he had sexually assaulted eight women in the one month after he was released from prison in May. He had killed Mary, the last of his many victims.

Fewer than 800 rapes were reported in Minnesota in 1978. Last year, the Minnesota Bureau of Criminal Apprehension documented 1445 reported rapes. In the rural areas of Minnesota, 78 rapes were reported in 1978. By 1987, there was more than a 300 percent increase in reported rapes in greater Minnesota.

Crime statistics tell only a small part of the story. Long after a crime is reported and prosecuted, rape can condemn a victim - a survivor - to a lifetime sentence of trauma and fear. Left unchecked, rape will continue to condemn women to terror in their own homes, on their own streets, in their own places of employment.

By mid-summer, the Minnesota Poll reported that two-thirds of women in the Twin Cities metropolitan area had restricted their activities or armed themselves to try and protect themselves from violent sexual assault. More than half of the women changed the place where they parked or waited for someone to accompany them before going to their cars. One in seven armed themselves with weapons or mace. Three out of ten citizens said they had become more afraid to go downtown. Of those who had become more fearful, 89 percent were women. 1

While the daily papers reported the release from prison of sex offenders, Minnesota women saw their security under seige. Purveyors of

mace and self-defense clinics did a booming business.

On June 26, 1988, Attorney General Hubert Humphrey III called for the appointment of a Task Force on the Prevention of Sexual Violence Against Women. The mission of this Task Force was to find a better solution to the threat of sexual violence than forcing to avoid parking lots, restrict their activities and arm themselves against thugs and rapists.

Attorney General Humphrey directed the Task Force to propose specific measures to increase control over sex offenders through sentencing, treatment and supervision. He also directed the Task Force to take a positive, long-term approach to preventing sexual violence against women through education and early intervention. Finally, the Task Force was asked to evaluate the need and adequacy of services for victims of sexual assault throughout Minnesota.

To accomplish its mission, the Task Force held four in-depth briefings and conducted public hearings in Moorhead, Rochester, Duluth, Marshall and the Twin Cities. Task Force members received oral and written testimony from hundreds of citizens, professionals, judges, lawyers and victims of sexual violence and spent many sessions in smaller working groups focused on specific policy questions.

The Task Force issued preliminary recommendations on Offender Control, Education/Prevention of Sexual Violence and Services for Victims/Survivors of Sexual Violence. These preliminary recommendations were widely distributed to obtain comments from citizens and professionals regarding the work of the Task Force. This Final Report reflects the comments and contributions of many members of the community as well as additional review and analysis by Task Force members.

The Task Force developed a comprehensive program to control sexual offenders. Sentences for rape must be increased to reflect the fact that every sexual assault is a serious, violent crime. However, all but a few sex offenders will some day be released to the community. Public safety requires that treatment and supervision be provided to maximize the chance that sex offenders will change their behavior.

It is neither cost-effective nor prudent to treat all sex offenders alike. The quickest way to lose public resolve to deal seriously with sex offenders would be to propose draconian measures for all offenders. The most serious consequences must be provided for the most dangerous offenders. Specialized training and technological advances must also be used,

from apprehension through release from prison, to increase our ability to convict and control sexual predators.

The Task Force seeks to emphasize that prevention of sexual violence does not start when a judge pronounces sentence upon a rapist. To prevent rape, we must break the cycles which perpetuate sexual violence. This requires more than the effort of the criminal justice system. Just as the consequences of sexual violence are felt in our families, our schools, our places of work, play and worship, so must any strategy to prevent sexual violence reach throughout our communities.

The resources of our schools, businesses, religious institutions, civic groups and government must be redirected to change attitudes which foster sexual violence and lend support to families and children who are at risk. As the Task Force heard in much poignant testimony, it is better to build healthy children than to punish or isolate dangerous adults. An investment in the future of our children may be the best investment we can make to protect long-term public safety and security.

Any examination of the problem of sexual violence must come back to the needs of victims. However effective we are in controlling sex offenders and making long-term changes in our society to prevent rape, there are women and men who have already been sexually victimized. Throughout the foreseeable future, there will continue to be victims of sexual violence who will demand our consideration and deserve our support. We must show that we care about more than the principle of public safety. We must show that we also care about the people who have been hurt by the brutality of rape.

Victims of sexual assault also play a critical role in any effort to prevent sexual violence through the criminal justice system. Victims who are given information, participation, advocacy and support throughout pre-trial and trial procedures are more likely to report crime and better able to use and withstand the criminal process. Without the commitment of sexual assault victims to use the criminal justice system, there are no arrests, no trials, no sentences, no treatment of sex offenders and no public protection. Any legislation to improve control of sex offenders is meaningless unless support is also given to victims of sexual assault.

In its months of work and in this report, the Attorney General's Task Force on the Prevention of Sexual Violence Against Women has first and foremost sought to redefine the problem of prevention of sexual violence. We must not only ask how each woman can protect herself from crimes, we must

ask how each institution in our society can be used to protect us all from sexual violence.

The second critical principle which has arisen from the work of the Task Force is that controlling criminals, preventing sexual violence and providing adequate services for victims of sexual assault are all interrelated. Control of criminals requires that services and support be provided to victims, so that they have the strength and commitment to report the crime and pursue prosecution of their assailants. Convictions also depend on the attitudes of law enforcement officers, lawyers, judges and jurors that rape is a serious crime and that offenders, not victims, should be held responsible for the offense.

Preventing sexual violence against women requires confinement and control of sex offenders. But, even more fundamentally, protecting women requires working to change the attitudes and conditions which foster rape. Education and early intervention with troubled families are critical to public safety. Similarly, providing services and rights to victims is one part of helping victims recover from the trauma of rape. But, imprisonment of sex offenders is also critical to prevent revictimization of a person who been assaulted. Increasing the severity of punishment of rapists sends the clearest possible message that it was the perpetrator, not the victim who is to blame. Education efforts in schools, churches, civic organizations and workplaces can affirm values of respect and non-violence and can encourage support and sensitivity to the rights of victims.

Finally, we must keep in mind that we will provide the best service for victims and the best use of scarce criminal justice resources when we work as a community to prevent sexual violence. Every woman who does not need to be consoled and every jail cell which does not need to be built may be an invisible victory. But these are the most important victories for public safety and for the future of women, men and children in our society.

CONTROL OF SEX OFFENDERS

I. JUVENILE OFFENDERS

A. Prosecution and Adjudication of Juvenile Offenders

The best hope to change the behavior of sex offenders is through prosecution and intensive treatment of juvenile sex offenders. Certification for adult prosecution is needed for the most serious older offenders. But, the juvenile justice system must also deal seriously with sex offenders who are not appropriate for certification.

Minnesota law permits juveniles from the age of ten to the age of majority to be prosecuted as delinquent for commission of sex offenses and to receive dispositions ranging from supervision at home to intensive treatment in custody. Minn. Stat. §260.015, subd.2a (10)(1988), Minn. Stat. §260.185 (1988). However, the Task Force heard testimony that many cases involving adolescent sex offenses are resolved informally without prosecution or treatment. Offenses have been rationalized with the philosophical maxim that "boys will be boys."

The Task Force heard compelling testimony that the most important intervention which can be taken to prevent sexual violence is to prosecute, adjudicate and provide appropriate control over juvenile offenders. Leading national experts in treatment of juveniles agree that prosecution of juvenile sex offenders is necessary to assure complete investigation, demonstrate the seriousness of offending behavior, hold the offender accountable, evaluate the need for treatment, facilitate entry into and motivation for treatment, support victims' rights, minimize denial, provide supervision, create a record of offending behavior and prevent further crimes.²

Research indicates that many juvenile sex offenders go on to become adult rapists. The most violent rapists and the rapists who are most likely to repeat their crimes also began their criminal careers in adolescence and had their first convictions before the age of 21. Such rapists tend to rape strangers, in contrast to rapists over 30, who are usually acquainted with their victims.³ If we do not intervene to prosecute and compel treatment of juveniles, today's adolescent offenders will be tomorrow's worst sexual predators.

Current law permits the juvenile court to establish the facts alleged in a delinquency petition without "adjudicating" the juvenile delinquent and making a permanent court record of the offense. There was a benefit in protecting the privacy of children when delinquency petitions were based on behavior such as truancy from school. But, where an adolescent has committed what would be criminal sexual conduct if done by an adult, it is vital that the courts both impose serious consequences, and preserve a record of the offense so that greater control can be imposed if the juvenile repeats his criminal behavior.

In practice, it is often difficult to determine a juvenile's prior record. If there is no adjudication of delinquency, the judge's notes may be the only record that an offense has been committed. Unless a delinquency case is adjudicated, the court is neither required to preserve juvenile delinquency records nor to make them available if needed for future sentencing. See Minn. Stat. §260.161 (1988). Even if there is an adjudication, the only record will be in the county where it was prosecuted. Because there is no statewide cross-reference system, prosecutors may not even know in which county to look to find records. Sentencing courts must be able to consider all serious repeat crimes of adolescent sex offenders to determine what controls are needed for punishment, incapacitation and treatment of criminals who enter adulthood with a long history of prior crimes.

RECOMMENDATIONS:

- 1. Law enforcement should be involved in all cases where juvenile sex offenses are reported, even if the initial report is made to a social service agency.**
- 2. Prosecutors should prosecute juvenile delinquency petitions for juveniles from the age of 10 through majority who commit a sexual assault which would be a crime if committed by an adult and are not appropriate for certification.**
- 3. Prosecutors should charge and seek adjudication of juvenile delinquency petitions in sex offense cases in order to assure that the record reflects the sexual nature and the seriousness of the offense.**
- 4. Judges should adjudicate all delinquency petitions involving allegations of conduct which would be a criminal sexual conduct offense if perpetrated by an adult.**

5. Judges should certify for adult prosecution older juvenile offenders who commit violent sexual assault and are not amenable to treatment or not controllable in juvenile facilities.

6. Each court should retain a complete alphabetical index of cases, including juvenile adjudications, so that prosecutors can accurately determine whether a juvenile has a prior criminal history.

7. The legislature should create a central recording system throughout the state for juvenile adjudications involving conduct which would have been a felony if it had been committed by an adult.

B. Custody, Treatment, and Supervision of Juvenile Offenders

Treatment of juveniles is likely to be more effective than treatment of adult offenders. Currently, there is no systematic process by which it is determined whether juvenile sex offenders need treatment. The Task Force heard that the best way to evaluate the need for treatment is to require assessment by a professional team independent of any proposed treatment facility before the court issues its order for custody or treatment of a juvenile offender.

Serious adolescent sex offenders may need as much as several years of intensive treatment. Current law provides that juvenile court jurisdiction ends when a juvenile reaches age nineteen. Minn. Stat. §260.181, subd. 4 (1988). Older juveniles often refuse to cooperate with treatment or supervision, since they know that the state's hold over them is limited. Treatment and supervision of older juvenile offenders is more effective if the leverage of potential punishment is available to compel compliance.

The Task Force heard testimony that neither of the Department of Corrections institutions for juvenile offenders have secure units. Although intensive sex offender treatment is provided for a limited number of sex offenders through the Hennepin County Home School, neither Red Wing nor Sauk Centre has an intensive sex offender treatment program.

Some juvenile offenders have special treatment needs. Sex offender specific peer groups may be more effective in changing the behavior of adolescent rapists than individual therapy alone. Further, the vast majority of juvenile sex offenders have themselves been victims of physical or sexual

abuse within the family. In order to help a juvenile offender and protect public safety, it will often be necessary to involve the family in treatment or to remove the adolescent from a dysfunctional family. Specialized supervision of juveniles provides support for treatment as well as better control of behavior.

RECOMMENDATIONS:

1. Judges should refer every juvenile found to have committed a sexual offense for assessment by an independent multidisciplinary team to determine the juvenile's need for treatment. This assessment should include questions about the sexual victimization of the juvenile offender as well as questions about offense behavior.

2. Judges should order treatment of juvenile sex offenders where the assessment indicates that the juvenile is in need of treatment.

3. Prosecutors should file a separate petition under the law pertaining to children in need of protection or services (CHIPS) to compel involvement of parents who refuse to participate in the treatment needed for a juvenile sex offender.

4. Judges should order and programs should provide treatment of juvenile sex offenders for a sufficient time to permit treatment to be effective.

5. Judges should order juveniles to be moved to more or less intensive and restrictive programs based on their success or failure in treatment.

6. Judges should remove juvenile sex offenders from the home if the family environment undermines treatment goals due to denial of the offender's problem, sexual or physical victimization of the offender, chemical abuse or other significant family dysfunctions.

7. The legislature should extend the duration of juvenile court jurisdiction over a juvenile who commits a sex offense which would be a felony if committed by an adult until the juvenile reaches the age of 21 upon specific findings at the time of sentencing justifying continued jurisdiction for the purpose of completing treatment and aftercare. Legislation should also be enacted to permit incarceration of these offenders in adult jails or workhouses for violations of release or probation

after the offender reaches age 19.

8. The Department of Human Services and the Department of Corrections should set standards and require licensing for treatment programs for juvenile sex offenders in correctional, residential and outpatient settings.

9. The Department of Corrections should provide intensive sex offender specific treatment programs within juvenile corrections facilities, including a separate and secure treatment program.

10. Each community should assure the availability of sex offender specific treatment programs for juveniles at various levels of intensity and security. Treatment professionals should include minority members, and programs should provide linguistically and culturally sensitive materials.

11. The Department of Corrections and community corrections programs should employ probation and corrections agents who specialize in management of juvenile sex offenders. These agents should be given manageable case loads and training regarding juvenile sex offenders.

II. PROSECUTION OF SEX OFFENDERS

Effective prosecution of sex offenders is critical to assure justice and public protection. Citizens expressed concerns to the Task Force both about low success rates when sex offense cases are brought to trial and about plea bargaining to secure conviction. Data presented by the Sentencing Guidelines Commission indicates that, in 1987, approximately half of the cases charged as forcible criminal sexual conduct were reduced to a lower severity level offense by the time of conviction.

After much discussion, the Task Force determined that there are several factors which influence the degree of success in trial or in negotiating a plea. Plea reductions may be the result of problems with witnesses. They may also result from aggressive charging practices by prosecutors who seek to maximize punishment for rape. Any rule limiting plea bargaining may, in fact, limit the consequences for rapists.

On the other hand, experienced prosecutors will be more likely to prevail at trial or to negotiate pleas which accurately reflect the seriousness of the offense. It is also important to preserve a record that the offender has

committed a sex crime so that more stringent penalties can be imposed for repeat offenses.

RECOMMENDATIONS:

1. Prosecutors who prosecute sex offenses should receive specialized training and, where possible, should have specialized case loads to increase conviction rates.

2. Prosecutors should aggressively charge cases involving sex offenses and make a determined effort to assure that any plea accepted reflects the sexual nature and the seriousness of the offense.

III. SENTENCING

A. Increase Presumptive Guideline Sentences

The Task Force believes that the sentencing guidelines' presumptive sentences for crimes of sexual violence are inadequate punishment for sex offenses. The sentences are also too short to permit meaningful treatment of sex offenders in prison or on supervised release.

The sentencing guidelines system provides a presumptive sentence beginning at 43 months on a first conviction for the most serious sex offenses. But even this sentence applies only to a narrow range of violent crimes classified by the guidelines as "severity level VIII" offenses. A rape only constitutes a severity level VIII offense if it involves penetration with force or coercion and one of the following factors: the victim feared great bodily harm, the offender caused personal injury to the victim, the offender was armed with a dangerous weapon, or the offender was aided or abetted by accomplice(s). (First degree criminal sexual conduct, Minn. Stat. §609.342)

Most rapes fall under the sentencing guidelines category of "severity level VII" offenses. Any rape which does not involve penetration, even if the victim feared great bodily harm, or the offender caused personal injury to the victim, or the offender was armed with a dangerous weapon, or the offender was aided or abetted by accomplice(s), is a severity level VII offense under the guidelines. Since many rapists experience sexual

dysfunction, even the most sadistic assaults can fail to provide the evidence of penetration required to increase the severity level. (Second degree criminal sexual conduct, Minn. Stat. §609.353, subd. 1 (c),(d), (e), (f), (h) is a "level VII" offense).

A rape which involves penetration and force or coercion, but does not offer proof of the degree of violence needed for first degree criminal sexual conduct will result in conviction of third degree criminal sexual conduct. (Third degree criminal sexual conduct under Minn. Stat. § 609.344, subd. 1 (c),(d), (g),(h),(i),(j), (k) is a "level VII" offense). Most forcible rapes are charged, pleaded or convicted as third degree criminal sexual conduct. These forcible rapes are also level VII offenses under the sentencing guidelines.

Severity level VII offenses carry a presumptive sentence under the guidelines of 24 months for first convictions. Further, since most prisoners get one-third off their sentence for "good time" if they do not pose disciplinary problems in prison (Minn. Stat. §244.04 (1988)), a rapist sentenced to a 24-month term can expect to spend barely 16 months in prison.

These sentences fail to provide sufficient time behind bars for meaningful treatment even for those sex offenders who would be amenable to change their behavior. Even the most optimistic witnesses testified that sex offenders would require at least 12 to 24 months to break through their denial and minimization of their offenses and develop some insight and control over their behavior. Once jail time, one-third good time and time for orientation and assessment are deducted from the sentence, many rapists have less than a year to undergo treatment.

Since supervised release under the guidelines only continues to the end of the sentence, not more than one third of its duration, this problem is compounded for any treatment program which begins upon release from prison.

Further, without the threat of longer sentences for lower level severity sexual offenses, criminals find a prison sentence less onerous than undergoing intensive treatment on probation. The Task Force heard testimony that in 1981, the first year of the sentencing guidelines, 54 percent of criminals given the choice between probation with treatment and prison, chose prison. By 1986, 83 percent chose to sit out their time in prison rather than undergo treatment and long-term probation.⁴

Finally, current guideline sentences for sexual offenses do not reflect the judgment of the legislature as to the seriousness of these crimes. The highest guidelines sentence for the most violent rape by a repeat rapist who has committed as many as six prior felonies is only approximately half (55 percent) of the statutory maximum sentence of 20 years. No matter how serious the offense and how incorrigible the rapist, a judge must find grounds to go outside the guidelines to impose a sentence which approaches the maximum penalty set by the legislature.

RECOMMENDATIONS:

1. The Sentencing Guidelines Commission should increase presumptive guideline sentences for severity level VII criminal sexual conduct perpetrated with force or coercion.

2. The Sentencing Guidelines Commission should increase presumptive sentences for severity level VIII criminal sexual conduct perpetrated with force or coercion.

3. The Sentencing Guidelines Commission should classify criminal sexual conduct in the second degree, which does not involve penetration, but involves personal injury, a weapon or fear of great bodily harm, as a severity level VIII offense.

4. The Sentencing Guidelines Commission should increase presumptive sentence for fourth degree criminal sexual conduct perpetrated with force or coercion.

B. Repeat and Violent Offenders

The Task Force concluded that a prior criminal history of sex crimes is not adequately taken into consideration by the sentencing guidelines. Although sentences increase where a criminal has prior convictions, no distinction is drawn between felonies in calculating criminal history points. A prior conviction for unauthorized use of a motor vehicle carries the same weight in determining the sentence to be imposed under the guidelines as does a prior conviction for the most sadistic rape.

The sentencing guidelines also restrict judicial discretion to impose stringent penalties on repeat rapists. Judges may only depart from the

guidelines when specified aggravating or mitigating factors are present.

Although a sentence beyond the guidelines is permitted when "the current conviction is for an offense in which the victim was injured and there is a prior felony conviction for an offense in which the victim was injured," Sentencing Guidelines II.D.2.(b)(3), this does not permit the court to deviate upward for all repeat rapists. Neither the guidelines commission nor the courts consider a conviction of rape alone as adequate proof of "injury."

In practice, to permit tougher sentences of repeat rapists prosecutors have had to bring past victims into court to prove that they were injured in an earlier crime. In some cases, a rape victim who brought her perpetrator to justice as many as ten years before has been forced to take the stand again, relive her experience and prove her past injuries so that a judge will have the right to keep a dangerous predator off the streets for longer than the guidelines sentence.

The sentencing guidelines provision, Sentencing Guidelines II. b. 4., stating that a person can only accumulate one criminal history point no matter how many juvenile offenses he has committed also fails to provide adequate consequences for serious juvenile recidivists.

Current law limits judicial discretion to impose stringent penalties for dangerous offenders. Recent precedent holds that "severe aggravating circumstances," may permit sentences longer than twice the guidelines sentence. State v. Mortland, 399 N.W. 2d 92 (Minn. 1987). But there have been many cases where judges' sentences have been overturned when they tried to impose sentences which were more than twice the guidelines limit. See, e.g., State v. Givens, 332 N.W. 2d 187 (Minn. 1983); State v. Evans, 311 N.W. 2d 481 (Minn. 1981). The guidelines also limit the grounds which can be used to impose tougher sentences. A judge may not impose a tougher sentence due to his or her assessment, whether based on the present offense or a pattern of prior behavior, that the offender is dangerous to the public. See, e.g., State v. Wall, 343 N.W. 2d 22 (Minn. 1984)

RECOMMENDATIONS:

1. The Sentencing Guidelines Commission should give prior crimes against the person additional weight in calculating criminal history under the sentencing guidelines.

2. The Sentencing Guidelines Commission should

modify provisions for aggravated durational departure to permit judges to impose sentences above the guideline sentence if the current and prior offenses are sexual assaults or other crimes against the person, without the need to prove an additional "injury" to the person.

3. The Sentencing Guidelines Commission should remove the limit on the number of criminal history points which can be accumulated under the sentencing guidelines for felony level juvenile offenses against the person committed above age 15.

4. The legislature should enact a law permitting judges to sentence a sex offender up to the statutory maximum for the crime upon findings that the offender is of particular danger to public safety due to the level of violence in the offender's crime, if the offender is a repeat or patterned sex offender, or if the offender committed another sex offense after participating in sex offender treatment.

IV. TREATMENT OF SEX OFFENDERS

Imposing longer sentences alone is not enough to protect women from the threat that sex offenders will commit additional assaults. Even with harsher sentencing guidelines and greater judicial discretion, most rapists will one day be released from prison. Treatment is not favored by the Task Force as a benefit or right of criminals. It is a way to increase the likelihood that offenders will change their behavior so that they no longer threaten the safety of women when they must be released.

Treatment programs facilitate change in sex offenders' behavior and may also provide a way to assess which prisoners are likely to commit new offenses. Not all sex offenders are amenable to treatment and even the most comprehensive treatment cannot guarantee a change in behavior. The majority of the testimony heard by the Task Force advised against mandating treatment, since the most effective methods rely on participation in group processes and can be undermined by an unwilling participant. Incentives for participation in treatment, however, can be provided for offenders both in prison and on supervised release.

The Task Force heard testimony that current law forces judges to choose between punishment and intensive treatment. Intensive residential treatment for a period of two or more years in duration can be provided on

probation through the Intensive Treatment Program for Sexual Aggressives run by the Department of Human Services at the Minnesota Security Hospital in St. Peter. Alpha House, a private residential program in Minneapolis, also provides long-term intensive treatment for sex offenders.

The Department of Corrections has taken the initiative to provide several different types of programming for sex offenders within an institutional setting. The Minnesota Correctional Facility at Stillwater provides a sex education class for offenders. Group therapy and education is provided to some 20 to 30 sex offenders in the Special Treatment Unit at the Oak Park Heights. The Transitional Sex Offender Program (TSOP) uses 30 beds at the Lino Lakes Correctional Facility in Stillwater. This program was established so that sex offenders who apply, are screened for and can be accommodated in the program can receive group therapy and supervision before sex offenders are released to the community. The Department also provides voluntary groups at the St. Cloud Correctional Facility designed for offenders whose sentences are too short to attend another program, who would like a support group after finishing another program or who have not been accepted for other treatment.

Although the Department of Corrections deserves credit for working to develop new programs for sex offenders, the Task Force heard concerns about the intensity and duration of these programs as well as concerns about the availability of space to treat all offenders assessed to need treatment. Data on the programs is limited, but both Oak Park Heights and the TSOP Program at Lino Lakes have reported that the rate of reoffending is much higher for persons who fail to complete the treatment program. After three years, 21 percent of the offenders who fail the Transitional Sex Offender Program are returned to prison on a new offense, as compared with 9 percent of offenders who complete TSOP. Combining figures for new offenses and release violations, 40 percent of the offenders who fail to complete TSOP are returned to prison, as compared to 15 percent of those who complete this short-term program.⁵ This data may mean that the treatment programs effect change in behavior; it certainly means that success in a program is a factor in predicting future behavior.

Return rates may be even higher for offenders who rape as compared to those for other sex offenders. A recent State Planning Agency study shows that the rate of conviction on a new offense for violent sex offenders is approximately 21 percent, more than four times the rate (5

percent) of reconviction for criminals who commit intrafamilial abuse.⁶ To evaluate the effectiveness of programs, it is important to have accurate data regarding the nature of the offense committed, participation in treatment and long-term follow up for reconviction of crime or violation of the terms of release.

Testimony also stressed that sobriety and participation in chemical dependency treatment is critical to preserve inhibitions and reduce recidivism. More than half (53 percent) of convicted sex offenders are under the influence of alcohol or other drugs while committing the sexual offense, and the percentage is steadily increasing.⁷ Alcoholics Anonymous programs are available to all inmates in Department of Corrections facilities. Correctional facilities at Stillwater, St. Cloud and Oak Park Heights also have therapeutic programming for chemical dependency treatment. One expert informed the Task Force that if he could provide only one program for sex offenders it would be chemical dependency treatment.⁸

RECOMMENDATIONS:

1. The Department of Human Services should expand intensive treatment programs for convicted sex offenders determined to be appropriate for probation and amenable to treatment.

2. The Department of Corrections should provide intensive sex offender specific programs in prison for all offenders who are assessed as amenable for treatment or meet reasonable admission requirements set by the Department of Corrections, so long as the offenders follow reasonable requirements for participation in the programs.

3. The Department of Corrections should provide and require sex offenders to participate in sex offender specific residential programs and outpatient group treatment programs on supervised release or on probation, of sufficient duration and intensity to permit change in offender behavior.

4. The Department of Corrections should provide chemical dependency programs in prison and upon supervised release to all sex offenders who are assessed to need chemical dependency treatment or meet reasonable admission requirements set by the Department of Corrections, so long as the offenders follow reasonable requirements for participation in the programs.

5. The Department of Corrections and community treatment programs should include minority members among treatment professionals and provide linguistically and culturally sensitive materials to make sex offender and chemical dependency programs more responsive and effective.

6. Sex offender and chemical dependency treatment programs throughout the corrections system should be accessible and effective for illiterate and developmentally disabled offenders.

7. The Department of Human Services and the Department of Corrections should set standards for treatment programs for sex offenders in prison, including standards for offenders' access to materials which promote or feature sexual violence.

8. The Department of Corrections should work with the Department of Human Services to track sex offenders through probation, prison and supervised release and conduct longitudinal follow-up to assess the efficacy of treatment, efficacy of supervision and recidivism specific to nature of offense. The Department of Corrections should provide an annual report of this information.

V. REENTRY OF SEX OFFENDERS INTO THE COMMUNITY

Public safety is needlessly endangered if sex offenders are released from prison to the streets without an extended program of treatment and gradual reentry into society. Many rapists require residential treatment under close observation for a year or more upon release from prison. Even where residential treatment isn't called for, long-term treatment in the community specific to sex offenders is necessary to reduce risks of reoffending. Intensive supervision is needed to monitor associations and behavior and to prevent escalation of violence before additional sexual assaults are perpetrated.

Although more than half of rapists released from prison are now required to attend some sort of residential program, the time spent in these programs is often inadequate. In 1987, rapists sent to residential programs after prison spent only two to four months in this setting. Communities' unwillingness to site or sustain residential programs has required that even this time be cut so that a greater proportion of offenders will spend some

time under close supervision.

Limited spaces in residential programs recently forced the Department of Corrections to cut the time which offenders will spend in residential programs to 60 days. As a consequence, a residential program which serves sex offenders has informed the Task Force that they will have to drop or phase out all chemical dependency and sexuality programming since the time limits are inadequate for these programs.⁹

The Task Force has also heard testimony that supervised release of sex offenders is often ineffectual. The caseloads corrections agents handle are unmanageable, contact with offenders is sporadic and corrections agents receive no specialized training in how to supervise sex offenders to reduce the chance that they will commit additional crimes.

RECOMMENDATIONS:

- 1. The Department of Corrections should work with community service providers to provide a continuum of less restrictive settings and conditions for sex offenders on supervised release based on participation in treatment and compliance with rules of supervised release.**
- 2. Revocation procedures should provide ready access to reincarceration for treatment failures so that treatment programs will be willing to take the risk of permitting participation of violent sex offenders.**
- 3. The Department of Corrections and community corrections programs should employ probation and corrections agents who specialize in management of sex offenders. These agents should be given manageable case loads and specific training regarding sex offenders.**
- 4. Probation and corrections agents should involve treatment professionals and community contacts of the offender in supervision of sex offenders.**
- 5. Probation and corrections agents should use the 72-hour hold to restructure supervision, including requiring more restrictive conditions or a different living situation, when a sex offender demonstrates behavior or loss of control that increases the risk of re-offending.**

VI. INCENTIVES FOR TREATMENT, LONG-TERM SUPERVISION

The Task Force heard testimony that the most egregious sex offenders are often unwilling to respond to treatment. Determinate sentencing reduces the incentive for treatment because an offender will be released at the end of his sentence whether or not he seeks or benefits from treatment.

The Supervisor of the Transitional Sex Offender Program (TSOP) at Lino Lakes testified that rapists may be less likely to seek treatment or to follow through with the program than they were under the old parole system which required treatment before release.

Although incest perpetrators may complete treatment even without the threat of continued imprisonment, violent sexual offenders often drop out. When an offender could be held longer in prison if he didn't succeed in treatment, 65 percent of rapists who began the TSOP program satisfactorily completed it. Under the current fixed sentencing system, the completion rate for rapists is 46 percent. Similarly, the Task Force was informed that approximately 60 percent of the inmates who enter treatment at Oak Park Heights drop out without completing the program. ¹⁰

Under current sentencing, an offender's time on supervised release from prison is limited to his earned "good time," which is no more than one-third of his sentence. The most incorrigible offenders, who continue to pose disciplinary problems in prison and lose their statutory "good time" could well have no time left for supervised release after the prison doors are opened.

RECOMMENDATIONS:

1. The legislature should permit judges to structure sentences for repeat and violent sex offenders to create leverage for behavior change and to permit long-term controls over dangerous sexual predators.

a. Judges should be able to sentence sex offenders who act with aggravated violence, repeat or patterned sex offenders or sex offenders who commit additional crimes after participation in treatment (see discussion in Section IIB. at p. 14) up to the statutory maximum for the offense.

b. Judges should be able to stay part of this sentence, above a set minimum term of imprisonment, so that the offender can be released before the maximum sentence imposed if he makes substantial progress in treatment and has been accepted in an after-care program.

c. The remainder of the sentence not yet served in prison (as in a probationary sentence) should be executed if a sex offender refuses or fails in treatment while on release from prison or otherwise fails to meet the conditions of supervised release.

VII. INDETERMINATE CONFINEMENT FOR SEXUAL PREDATORS

The current statutory maximum sentences are 20 years for first degree criminal sexual conduct (Minn. Stat. §609.342), 15 years for second degree criminal sexual conduct (Minn. Stat. §609.343) and 10 years for third degree criminal sexual conduct (Minn. Stat. §609.344). Even if statutory maximum sentences are imposed for sex offenders, there will come a time when they must be released from prison. The Task Force believes that there are a limited number of the most dangerous sexual predators who should never be released to the community.

The psychopathic personality statute is the only method currently available to maintain an indeterminate hold on a sex offender. Under Minnesota law, sexual psychopaths who are "irresponsible" for their sexual conduct due to emotional instability, impulsiveness, lack of customary standards of good judgment, or failure to appreciate the consequences of personal acts and are thereby dangerous to other persons can be committed for an indeterminate term. Minn. Stat. §526.09.

Several witnesses before the Task Force testified that some of the most dangerous sexual predators may not fit the psychological criteria of Minnesota's psychopathic personality statute. They may be "sane, but dangerous." These offenders may not be treatable or may resist and disrupt any treatment program.

There was considerable division on the Task Force as to the best method of providing for indefinite confinement of sexual predators. It was suggested that the current psychopathic personality statute could be used more frequently. Other members suggested that an indeterminate sentence

to prison could be imposed for any repeat sex offender.

After extensive discussions, the sense of the Task Force was that there should be a way to impose indeterminate confinement for dangerous offenders who may not have a "psychopathic personality." This confinement should only be available after the offender has been convicted and after a separate hearing has been held to determine that the offender poses a particular danger to the public. The Task Force believes that any procedure for indefinite confinement must be carefully tailored so that it provides public protection from the most dangerous sexual offenders within constitutional limits.

Concerns were also raised that an indeterminate sentence should not be imposed instead of a fixed prison term. A fixed prison term must serve as the minimum time of confinement for dangerous sex offenders. Beyond that term, the need to establish that the offender no longer poses a danger to society would provide an additional safeguard for the community.

RECOMMENDATIONS:

1. The legislature should permit an indeterminate term of confinement for dangerous convicted sex offenders to be imposed in addition to a determinate prison term upon proof in a separate hearing of sexual dangerousness.

2. Proof of sexual dangerousness should be based on the aggravated violence of the offense of conviction or a pattern of predatory behavior, without requiring proof of a "psychopathic personality."

3. The legislature should require determination by a special review board that the sexually dangerous offender is capable of making an acceptable adjustment to open society and that he no longer presents a danger to the public before he can be released from custody. In no event should the offender be released before he has served the determinate sentence imposed at conviction.

4. The Department of Corrections and the Minnesota Security Hospital should make treatment available to a dangerous sex offender only to the extent which he can benefit from treatment or becomes amenable to treatment and to the extent that he complies with reasonable rules set by any treatment program.

VIII. PSYCHOPATHIC PERSONALITY STATUTE

Under Minnesota law, sexual psychopaths can be confined through a civil commitment proceeding. They may then be released only upon findings of a special review board that they no longer present a danger to the public. Minn. Stat. §§526.10, 253B.18 (1988). In practice, for particularly uncontrollable predators, the commitment statute can provide a life sentence in custody.

The Task Force received evidence that in some cases, the psychopathic personality statute is the only method available to control offenders who would otherwise escape custody. It may not be possible to prove a conviction beyond a reasonable doubt where the victim has been incapacitated by her injuries or is otherwise unable to testify. Sex offenders who are adjudicated not guilty by reason of insanity at the time of the offense may not be committable as mentally ill and dangerous by the time a petition is filed.

On the other hand, concerns were raised that the statute reflects a misplaced preoccupation with sexual conduct. The Task Force heard that persons who engage in minor sexual misconduct, such as exhibitionism, should not be placed in indeterminate custody. There was some support for extending indefinite confinement to uncontrollable violent offenders as well as sex offenders.

The Task Force also heard testimony that custody and treatment of sexual psychopaths who have not been convicted of crimes may pose difficulties. Laws which permit civil commitment of persons with a psychopathic personality provide a right to treatment, Minn. Stat. §§526.10, 253B.03, subd. 7. However, even when treatment is made available to a sexual psychopath, this does not mean that he can be cured. Violent sex offenders can also pose dangers in a hospital environment. They may sexually assault other patients and staff and undermine the treatment process.

The Commitment Act Task Force appointed by the Commissioner of Human Services published a report in February 1988 which raised concerns that commitment to a Department of Corrections facility might be unconstitutional absent a conviction. But there are at least two states - Massachusetts and Illinois - which commit sexual psychopaths to a corrections facility without a requirement that they first be convicted of a

crime. Colorado law permits indefinite commitment of sex offenders who are convicted of crimes to a treatment facility in a correctional setting. Although current Minnesota law permits transfer of a sexual psychopath to a Department of Corrections facility on the grounds of lack of space, the law does not provide for transfer if a person poses a security risk in the Security Hospital or is not amenable to treatment in the hospital setting. *See* Minn. Stat. § 246.14 (1988). There is no authority which holds that treatment cannot constitutionally be made available in a maximum security incarceration setting. *See* Bailey v. Noot, 324 N.W. 2d, 164, 167-168 (Minn. 1982).

At present the sexual psychopathic personality statute is infrequently used, and there are only approximately 20 sexual offenders who are now confined under the statute. The Task Force believes that the psychopathic commitment statute should be used to confine violent sexual offenders who have a personality disorder which makes them unable to control their behavior. Within constitutional limitations, efforts should be made to make this law more effective for control of offenders who do not respond to treatment in a hospital setting.

RECOMMENDATIONS:

1. The legislature should retain the civil commitment procedure for persons having a "psychopathic personality."

2. The legislature should permit transfer of a person with a psychopathic personality to custody by the Department of Corrections if the individual poses a danger to himself or to others in the security hospital or if the individual is not amenable to treatment in a hospital setting.

3. The legislature should clarify that the right to treatment of a person committed due to psychopathic personality does not include the right to remain in a treatment program if he refuses to comply with reasonable rules set by that program and/or refuses treatment.

IX. SEXUAL VIOLENCE AND DOMESTIC ABUSE

The vast majority of sexual assaults perpetrated against Minnesota

women are perpetrated by assailants known to the women. In greater Minnesota, the percentage of sexual assaults committed by assailants known to the victim approaches 95 percent.¹¹

Professionals who have worked with men who batter their wives and girlfriends testified that over 60 percent¹² and perhaps as many as 90 percent¹³ of these men have also sexually abused their partners. The threat of another beating may coerce unwanted sexual contact in a marital or other close relationship.

Under the Domestic Abuse Act, a court may protect a family or household member, including spouses, former spouses, parents and children, persons who have a child in common and persons who are residing together or have resided together from "domestic abuse." The courts may issue an order restraining the abuser, and violation of that order is a misdemeanor. Minn. Stat. §518B.01.

The Task Force received testimony that there is inconsistent application of orders for protection to domestic violence and inconsistent enforcement when orders are violated. Further, although "domestic abuse" is defined by statute to include the sexual assault of children, Minn. Stat. §518B.01, subd. 2(a), it does not specifically include sexual assault against adult women. If the courts fail to respond to domestic abuse and sexual violence, violence in marriage or divorce can escalate and result in kidnapping, rape or even murder.

The Task Force also learned that many cases of marital rape and sexual assault between persons in relationships go unreported because neither the victim nor the professionals with whom she is in contact identify that criminal sexual conduct has occurred. When a battered woman comes to the hospital, she may neither be asked if she has been raped nor offered appropriate examination and treatment. Unless a victim of domestic abuse volunteers the information, law enforcement officials may not even inquire whether she has been subjected to sexual assault.

RECOMMENDATIONS:

1. Judges should grant orders for protection to women who are threatened with sexual assault by a husband, ex-husband, person who shares or has shared a residence or father of their child.

2. Judges and law enforcement officials should

strictly enforce orders for protection to establish consequences for physical and sexual assault and for failure to accept the authority of the court.

3. Penalties should be increased for offenders who commit an assault in violation of an order for protection or other "no contact" order of the court. This should be done either through legislative change or through a change in the sentencing guidelines to permit judges to impose sentences above the presumptive guidelines sentence when a crime is committed in violation of a court order.

4. Judges should consider the safety needs of women who have been physically or sexually abused in setting terms and conditions of child visitation.

5. Nurses, doctors and social service personnel should receive training to assess and document marital rape or other sexual assaults when they treat or consult with women who are victims of battering.

6. Law enforcement officials and prosecutors should ask battered women whether they have been sexually assaulted and should obtain evidence of criminal sexual conduct while investigating domestic abuse cases.

X. NEW TECHNOLOGIES

A. DNA Profiling

The Task Force heard testimony that new technologies may offer a cost-effective way to increase public safety. More reliable apprehension of offenders, specific deterrence to prevent repeat rapes and use of more stringent surveillance of sex offenders outside prison can reduce the threat of sexual assaults.

The technique of DNA profiling has the potential to revolutionize apprehension and conviction of sexual offenders. Scientists can obtain genetic material from blood, hair, skin or semen found at the scene of the crime and create an x-ray photograph which records the unique pattern of the perpetrator's genetic code. That autoradiograph of the perpetrator's DNA can be matched with a similar record made from a suspect's blood in much the same way that fingerprints are cross-referenced.

Not only does DNA "fingerprinting" have great potential as a method

to establish proof of the identity of a rapist, it may play a special role in controlling repeat offenders. There would be a breakthrough in apprehension and conviction of repeat rapists if a blood sample and DNA autoradiograph were obtained from every sexual offender before he was released to the community. Corrections officials would also be able to increase specific deterrence of a rapist released from prison. Before the sex offender walked out the prison doors it could be clearly explained to him that he could not escape detection if he offended again. In the most literal sense, law enforcement would already have his number.

Currently, DNA "fingerprinting" is done on an individual case basis by at least two private laboratories in the United States. These private facilities have no data bank to assist in apprehension of criminals. No government laboratories have yet been equipped to perform DNA analysis. The FBI has initiated a program to standardize the methodology for DNA profiling throughout the country and train personnel at State and local crime laboratories throughout the nation. The Minnesota Bureau of Criminal Apprehension has been working with the FBI and private laboratories to develop the protocols and technical expertise to implement DNA profiling.

RECOMMENDATIONS:

- 1. The legislature should require all emergency rooms and other providers who conduct evidentiary examinations to use the standardized evidence collection kit and protocols developed by the Bureau of Criminal Apprehension.**
- 2. The Bureau of Criminal Apprehension should include collection of samples and protocols for DNA profiling in its standardized evidence collection kit.**
- 3. The legislature and the courts should provide for admissibility of the results of DNA profiling in evidence.**
- 4. The legislature should require all convicted sex offenders to submit to blood sampling for DNA profiling prior to release from incarceration. Corrections officials should inform all sex offenders that their DNA "fingerprint" will be kept on file so that they will be identified and apprehended if they commit another crime.**
- 5. The Bureau of Criminal Apprehension should coordinate implementation of DNA profiling with FBI**

development of uniform probes and protocols to establish reliability and permit cross-referencing of information.

6. The Bureau of Criminal Apprehension should implement DNA profiling in Minnesota laboratories as soon as appropriate protocols, training and admissibility of evidence are established.

B. Intensive Supervision

Electronic monitoring is gaining widespread acceptance as a way to reduce costs of incarceration and reduce the need for additional jail and prison beds. Electronic monitoring can also be used in conjunction with face-to-face supervision and treatment to increase the number of offenders who can be effectively supervised by each corrections agent.

The system used most often around the county is one where an offender is placed on a random calling system and monitored by an automated dialer at a control station. The offender must call in, identify himself, and insert an electronic wristlet in the verifier box attached to the telephone to confirm that the proper person has responded to the curfew check. Recorded responses give voice verification and may also indicate evidence of alcohol or drug abuse. A continuous signalling system can also be used to monitor whether an offender remains within a specific area, such as a home or workplace. When offenders are released to the community, every effort should be made to enhance supervision and control.

RECOMMENDATIONS:

1. The Department of Corrections and community corrections programs should encourage implementation of electronic monitoring for sex offenders on probation and supervised release to increase the effectiveness of supervision.

2. The courts should provide for the admissibility of computer printouts from the random calling system to prove violations at revocation hearings.

EDUCATION/PREVENTION OF SEXUAL VIOLENCE

The Task Force has identified three types of action which we, as a community, must take to prevent sexual violence:

- 1) We must change cultural attitudes and belief systems which foster sexual violence.

- 2) We must intervene with children whose behavior demonstrates that they are at risk to become sexual aggressors.

- 3) We must promote primary prevention of sexual violence by helping parents nurture healthy children.

Changing Attitudes

Professionals who treat sex offenders testified that attitudes condoning violence against women play an important role in the development of sexual aggression. Adolescent rapists frequently use rape myths to blame their victims and justify their behavior. ¹⁴

Surveys of school children dramatically illustrate the prevalence of attitudes which excuse rape and blame its victims. A survey was recently taken of 1,700 sixth-to-ninth graders who attended the Rhode Island Rape Crisis Center's assault awareness program. Half the students believed that a woman who walks alone at night is "asking to be raped." More than half of the boys and 41 percent of the girls said that a man has the right to force a woman to kiss him if he has spent "a lot of money" on her. The twelve-year-olds indicated that "a lot of money" meant \$10 to \$15.

Nearly one third of the youngsters responded that it would not be improper for a man to force a woman to have sex if she was no longer a virgin. Sixty-five percent of the boys and 47 percent of the girls in junior high said that it was acceptable for a man to force a woman to have sex if they have been dating for more than six months. Eighty-seven percent of the boys and 79 percent of the girls said that rape is acceptable if a man and woman are married.

Additional studies have demonstrated the prevalence of similar

values in larger, more varied groups. Goodchilds and Zellman studied high school students in the state of California. Regardless of race, class or other factors, the majority of students agreed that a girl has granted license to a boy to use force to achieve intercourse if "she has led him on" or "she gets him sexually excited." 15

A survey of seventy-two ninth grade students in Carlton County, Minnesota, was presented to the Task Force in Duluth. In this survey, more than half of the students agreed with the statement, "Rape victims are often weak and passive." Eighty-six percent of the students agreed that, "Sexual assault can't really happen to you, if you don't want it to."

Research suggests that more generalized cultural beliefs regarding aggression and gender inequality may also contribute to the prevalence of sexual assault. Peggy Reeves Sanday conducted a cross-cultural analysis of sexual violence based on data obtained by anthropologists. She classified societies as more or less "rape prone" and identified cultural variables which were correlated with the prevalence of rape.

Sanday found that rape-prone societies were more likely to have a higher level of interpersonal violence and an ideology which encouraged men to be tough and aggressive. Women were less likely to participate in public decision-making and more likely to be separate from males. Men were more likely to express contempt for women as decision-makers. Sanday concluded that the incidence of rape in our society would be reduced if programming for violence were decreased so boys grew to respect women.¹⁶

The Task Force also heard testimony that a normal fallacy in the moral development of children is to conclude that if someone is being hurt they must have done something wrong to deserve it. Prevention of rape must first challenge this fallacy and other myths which justify sexual aggression. Education should also strengthen values of non-violence and respect for women to increase intolerance for sexual violence.

Early Intervention

Providing information and experiences to help shape positive attitudes is not enough to prevent rape. Even the most comprehensive educational program is unlikely to influence a child with serious family dysfunction, personality disorder or deeply ingrained learning of patterns of sexual aggression.

Sex offenders do not suddenly adopt deviant behaviors as they reach adulthood. Sexual deviancy is most likely to have been acted out in adolescent or even pre-adolescent years. Witnesses testified that there is an urgent need to identify and treat young children who are acting out in sexually aggressive, bizarre or exhibitionistic ways. These children are at high risk for becoming tomorrow's sexual offenders. The best hope for these children and for society as a whole is to identify and reach troubled children before they commit criminal acts.

Primary Prevention

Testimony and research data suggest that sexual violence can be an outgrowth of other family dysfunctions. Many abused and neglected children grow to be healthy adults and loving parents. However, the Task Force heard that physical and sexual abuse of children and child neglect play a critical role in the development of offenders.

Professionals who treat sex offenders emphasized the relationship between victimization of children and sexual aggression of adults. One witness testified that all offenders he had worked with had previously been victims of sexual or other violent offenses.¹⁷ A judge informed the Task Force that in her entire legal career, she knows of only one defendant who committed violent or sadistic sexual assault who was not himself either physically or sexually abused as a child.¹⁸

One of the leading texts on sexual offenders, Nicholas Groth's Men Who Rape, reported that one-third of the offenders studied had experienced sexual trauma during their formative years. Among the offenders who described sexual trauma, three-fourths had been victims of sexual abuse or violent sexual assault. The vast majority (68 percent) had been victimized as pre-adolescents.¹⁹

The FBI recently conducted a study of 41 serial rapists through the National Center for the Analysis of Violent Crime. These convicts had committed over 837 sexual assaults and 400 attempted rapes. They had been convicted of rape a total of 200 times. In this group of offenders, 75 percent reported that they had been sexually abused as children.²⁰

The relationship between child sexual trauma and future sexual violence is not the only important cycle which must be broken to prevent sexual violence. Witnesses related their clinical impressions that the absence

of parenting by both mothers and fathers is another significant pattern observed in violent offenders. One witness testified that the most consistent pattern he observed after evaluating hundreds of sexual offenders was the lack of a good relationship between the offender and his father. Neglect of children may be as likely to place a child at risk for becoming a sexual predator as incidents of violence and abuse.

To reduce the risk of future sexual violence, it is necessary to support families who can nurture healthy children. Prevention of child abuse and neglect and development of support systems for families will provide valuable benefits to children. The evidence also suggests that such policy initiatives are critical to provide long-term protection of public safety.

I. SCHOOLS

A. Adoption of Curricula to Prevent Sexual Violence

The school is the primary institution outside the family through which children are socialized. Schools, thus, play a vital role in shaping attitudes and values. They may provide the best forum for broad exposure of children from diverse family backgrounds to information and inquiry which will prevent sexual assault. Education to prevent sexual violence must be a part of the school curriculum from the earliest ages through secondary school.

There are a number of resources already available in Minnesota to teach children the skills and attitudes which would prevent sexual violence. The Illusion Theater has developed curricula both for young children ("Touch") and for high schools ("No Easy Answers") to teach students to distinguish between wanted and unwanted touch. In Moorhead, the Task Force learned that more than 11,290 children had participated in the Red Flag/Green Flag program taught by teachers and police officers to help children build self-esteem and avoid child abuse. In Rochester, the Task Force heard testimony that the Women's Shelter, a local shelter for battered women, had worked closely with schools to develop and implement a curriculum designed to change attitudes which foster physical violence against women. The Minnesota Coalition for Battered Women has used written materials and an original videotape, "The Power to Choose," to teach students to reevaluate the attitudes which underly violence against women.

The Rape and Sexual Assault Center has piloted a program, Project SAFE, for primary grades through the Minneapolis public schools. This program is designed to raise self-esteem, improve decision-making and promote expression of feelings.

The Sexual Health and Responsibility Program (SHARP), which was developed by the Minnesota Department of Human Services in conjunction with a panel of experts, is an excellent example of a sexual assault prevention program for adolescents. The curriculum provides information to dispel the myths which condone rape. It includes videotaped situations where different types of sexual aggression are sensitively portrayed by teen actors, written materials, facilitated group discussion and values-clarification exercises. Follow-up surveys of students who have participated in the SHARP program demonstrate that it produces a measurable change in attitudes. ²¹

Although various excellent curriculum components have been developed, the Task Force heard that there has been no coordinated effort to provide education to prevent sexual violence. There is no model curriculum to provide a sequence for education from kindergarten through high school. There is no requirement that such a curriculum be developed or implemented. The Department of Education currently has no listing or evaluation of available curricula, no record of which schools have used prevention curricula and no directory of trained teachers who could be resource people in their areas.

Not surprisingly, many schools have no program to prevent sexual violence. Others have had programs which run for only a session or semester in high school. These lessons are often too little, too late.

In addition to receiving testimony that sexual assault prevention must be an essential part of education, the Task Force also heard concerns about imposing yet another social curriculum element upon the schools. During recent years, the schools have been bombarded with requests and directives to implement specialized curricula, ranging from drug abuse prevention to AIDS education. Proponents have argued in each case that the new curriculum is an indispensable part of the child's school experience.

Adoption of a number of different curricula as each social issue reaches public attention could intolerably burden teachers and students. But, it is neither necessary nor desirable to deal with social problems in isolation. Many core issues such as self-esteem, healthy sexuality, problem-solving,

expression of emotions, respect for others and tolerance for individual and group differences are critical for prevention of a number of social ills. Consolidation of social curricula would not only make education on these issues less overwhelming, it would also be more effective. A sample of schools could then be used to evaluate learner outcomes and the effectiveness of education in changing attitudes.

RECOMMENDATIONS:

1. The Department of Education should compile and maintain information on curricula available to prevent violence and sexual aggression, including copies of written and video materials and lists of persons and schools who can serve as resources for implementation of the curricula.

2. The Department of Education should coordinate existing materials and develop additional model curriculum elements, for an integrated, culturally sensitive, "Problems in Living" curriculum for all school districts, K-12. This curriculum should address core issues such as self-esteem, healthy sexuality and respect for others and should provide specific, age-appropriate, materials dealing with social problems, such as discrimination, sexual aggression, drug abuse, AIDS, domestic violence and teen pregnancy.

3. The Department of Education should provide intensive training to teachers and administrators to facilitate adoption of a "Problems in Living" curriculum which includes prevention of sexual aggression.

4. Each school should implement within five years a "Problems in Living" curriculum which includes prevention of sexual aggression in all classrooms, K-12.

5. The Department of Education should instruct post-secondary institutions which provide teacher education to include content on prevention of sexual aggression in the requirements for a degree in education, social work or related fields.

6. The Department of Education should develop a model curriculum addressing "Problems in Living" for pre-school children through its Early Childhood Family Education initiatives.

B. Prevention of Sexual Harassment

Basic attitudes toward women, equality and the acceptability of sexual forms of aggression can be influenced not only by the nature of the curricula studied in the classroom, but by the code of conduct which is accepted within our schools.

In 1987, a dramatic case raised issues about the role of the schools and of the State High School League, which controls participation by students in sports and other extra-curricular activities, in preventing or condoning sexual harassment. In this case, a young woman who reported her sexual assault by another student committed suicide following sustained sexual harassment.

In less egregious cases, sexual harassment may interfere with well-being and self-confidence and disrupt the right of girls and young women to education. Verbal harassment may escalate to physical assault. When sexual harassment is tolerated in school, the message is communicated both to boys and girls that sexual aggression is acceptable behavior.

Under Minnesota law, sexual harassment in schools is illegal. Schools can be held liable for damages if their students are sexually harassed, whether by school employees or by other students.. Sexual harassment includes "unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature," when any of four conditions are met:

- Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining education;
- Submission or rejection of the conduct or communication is used as a factor in decisions affecting that person's education;
- The conduct or communication has either the purpose or effect of "substantially interfering" with a person's education;
or
- The conduct or communication creates an "intimidating, hostile or offensive" educational environment.

Minn. Stat. §363.01, subd. 10a.

Sexual harassment occurs with disturbing regularity in Minnesota schools. Susan Strauss, one of Minnesota's experts on sexual harassment in

the schools, recently described the following examples of harassment in the schools:

One eighth grade boy made catcalls and ugly sexual remarks while another pulled down a girl's slacks in a middle school hallway. A high school girl was dragged into the boys' locker room while the boys were showering. A teacher told an eleventh grader she looked so good in her sweater that she would make a great centerfold for *Playboy* magazine.²²

In 1986, a questionnaire on sexual harassment was distributed to student leaders and staff members from 13 school districts at a Minnesota State Sex Equity Student Leadership Conference. Eighty percent of respondents were aware of sexual harassment in their schools. Among these respondents, 75 percent were aware of harassment between students and 50 percent were aware of harassment between teachers and students. Twenty-six percent of the respondents agreed that sexual harassment "goes on all the time," and 50 percent said it "happens to a fair number of people." Only 6 percent stated "it doesn't happen at all."²³

A more detailed study was carried out in a vocational school which included secondary students from four school districts in the Twin Cities area. More than 50 percent of females enrolled in health and office occupations classes reported being sexually harassed at school. In a third group of 39 females and 130 males enrolled in graphic arts, construction trades, auto mechanics and food occupations classes, 33 percent of the girls, but only one boy reported that they had been victims of sexual harassment. In this study, sexual harassment was primarily a problem for the adolescent girls. Not surprisingly, 22 percent of the boys felt that sexual harassment was a problem in their school, as compared to 61 percent of the girls.²⁴

The Minnesota Department of Education has developed a curriculum for identification and prevention of sexual harassment to be used in high schools. The Department has begun training to introduce the curriculum to staff and teachers, but is hampered by a lack of resources dedicated to this issue. There is only one staff person in the Department of Education responsible to provide all training and presentations pertaining to sex desegregation, sexual harassment and inequality between boys and girls. Implementation depends on persuasion and limited resources. Teachers are not required to attend training or teach curricula pertaining to sexual harassment or to other civil rights violations.

Although Title IX of the federal Education Amendments of 1972 requires that schools adopt a grievance procedure to permit students or staff to file sexual discrimination complaints, its implementation does not provide adequate protection from sexual harassment. Many Minnesota schools have no policy which states that sexual harassment is a violation of law and of school rules. School grievance procedures may place sole responsibility for pursuing a complaint on the victim of harassment. The "advocate" for the victim may be the superintendent, creating a conflict of interest and a disincentive to pursuit of complaints. Neither students, parents or school personnel may know the rules and procedure for sexual harassment. Policies may sit on the books without enforcement.

The Commissioner of Human Rights informed Task Force staff that the Department has neither been involved in drafting a model sexual harassment policy for schools nor in providing training to teachers and administrators to prevent sexual harassment. Much expertise in this area has, thus, been underutilized.

The Task Force also learned that if an employee is terminated from a school due to sexual harassment of students, a prospective employer may be unable to discover the grounds for that termination. Schools, thus, may not have access to vital information to protect students from sexual harassment.

RECOMMENDATIONS:

- 1. The Department of Human Rights should develop and provide a model sexual harassment policy for use in the schools and update that model policy as required by changes in law.**
- 2. The Minnesota Department of Human Rights and the Minnesota Department of Education should provide training and the Department of Education should require teachers and personnel to receive training regarding sexual harassment in the schools. This training should define sexual harassment, explain its legal consequences and provide teachers with skills, support and materials to teach students to identify and prevent sexual harassment.**
- 3. School districts should be required to disclose to prospective employers and appropriate licensing agencies when a school employee has been disciplined or terminated for a validated finding of sexual harassment. Protection against liability for defamation should be provided for schools which**

make such disclosures in good faith.

4. All school districts should adopt and implement a sexual harassment policy which includes the following elements:

a. It must state that it is the policy of the school to maintain a learning and work environment which is free from sexual harassment.

b. Sexual harassment must be clearly defined to describe what behavior is prohibited and to explain that any school district employee or a student can be guilty of harassment.

c. Teachers and other school personnel must be required to investigate and take appropriate action if they observe or become aware of harassment of a student, even if no complaint has been filed. Any such action should be taken in a way which is sensitive to the needs of the victim of harassment as well as the need to impose consequences for violation of the school's code of conduct.

d. Any person who believes that he or she has been the victim of harassment must be able to initiate an investigation of possible harassment.

e. Each school district must designate a person who is responsible to investigate all complaints of harassment to determine whether they can be substantiated.

f. Disciplinary action, including warnings, suspension, and discharge/termination of students or employees should be imposed for substantiated cases of harassment.

5. Each school district's policy against sexual harassment should be a part of a more comprehensive policy which also prohibits harassment due to race, religion, national origin or sexual orientation.

6. All students and all parents should receive a copy of the harassment policy of the school and a document which describes examples of harassment and the possible consequences of that behavior.

7. The State High School League should develop a code of conduct pertaining to sexual assault and harassment. The League should impose discipline for participants who have committed criminal sexual

assault or violated this code of conduct and should provide for investigatory suspension from participation in extra-curricular events when there is a criminal court, juvenile court or formal disciplinary petition pending against a participant for sexual assault or sexual harassment.

C. Early Intervention with Children at Risk

The Task Force heard testimony that school personnel are in an excellent position to identify behavioral problems which signal that a child is at risk to victimize others. "We know which kids are going to end up on the police blotter," said one educator. The way in which schools respond to children may determine not only their future but the future of potential victims of sexual violence.

But the Task Force also heard testimony that schools too often have inadequate resources to intervene at the early signs of problem behavior. According to the Department of Education, the average ratio of counselors to students in primary and secondary schools throughout Minnesota is one counselor for every 500 students. The ratio recommended by the American School Counselors Association is one for every 250 students.

This statistic only describes part of the problem. There are 131 school districts which have no school counselors. School social workers are often authorized only to work with children in special education programs. Below the junior high level, there are often no social service staff to work with children. Across the state, there are fewer than 40 counselors in elementary schools, less than half of the number who were available ten years ago. Schools are forced to deal with more at-risk children with fewer resources.

There are few support groups within the schools. Few schools have staff to assure that adequate community services are obtained for a child. The Task Force also heard from the Committee for Blacks Living in Sexual Violence that children of racial and ethnic minorities may have no role models among teachers and counselors. Staff may overreact to acting out behavior or may miss signs of a child who is at risk due to differences in communication across racial or cultural lines.

Too often, intervention awaits the opening of a child protection file or the eventual filing of a delinquency petition through the juvenile justice system. The Task Force heard that early intervention in the schools can

break the cycle of violence. But, resources must be available to identify, assist, and obtain treatment for children at risk of becoming tomorrow's sexual predators.

RECOMMENDATIONS:

1. All schools, K-12, should have adequate staff, including social workers or counselors, to identify and coordinate social services needed by students.

2. School personnel should include women and men of diverse racial, cultural and ethnic backgrounds who can serve as role models for non-violent and respectful attitudes toward women.

3. School personnel should receive racially and culturally sensitive training to help them identify and respond appropriately to victims of sexual violence and children at risk of becoming perpetrators of sexual violence.

4. Each school district should designate a person responsible to identify treatment and support resources available in the school and community for at risk children and their families.

5. Each school should identify a person who will serve as a liason with treatment or other services which the child is receiving outside the school and will convene a multidisciplinary team, including the classroom teacher and the school psychologist/ counselor/social worker, to develop a plan to support and assist a child who is demonstrating high risk behaviors.

6. Class size should be limited to encourage and support teachers in establishing relationships with and monitoring the behavior of children, particularly those at high risk.

7. Schools should provide facilitated support groups for adolescents to give peer support for prevention of sexual violence.

II. EMPLOYERS

A. Prevention of Sexual Violence

Just as the school is the dominant institution outside the family

which supports, educates and socializes children, so does the workplace play a crucial role in the life of most adults. Working adults spend approximately one-third of their lives in the workplace.

The sphere of influence which employers have in the lives of their employees extends far beyond the obvious impact of salaries. Employers determine working conditions and define values within the corporate culture. Employers provide insurance for medical and mental health services. They determine the amount of time which parents have to spend with partners and children and whether they will have support for child care.

In many ways the corporation is the microcosm of our culture. Any efforts to prevent sexual violence or support family life must include this powerful institution.

Witnesses testified that the first step for employers must be to recognize that sexual violence has "bottom line" costs. A non-profit corporation of Twin Cities business people, Responses to End Child Abuse, recently explained, "Family violence costs millions of dollars annually in lower productivity, turnover, absenteeism and excessive use of medical benefits." ²⁵

It was recently reported from a survey of 160 major United States companies that 90 percent had received complaints from female employees regarding sexual harassment in the workplace. One-third of the firms had been sued for sexual harassment and one-fourth had been sued repeatedly by employee victims. It was estimated that an average major firm pays \$6.7 million a year in sex-harassment related costs, including absenteeism, low productivity and high turnover as well as litigation costs. ²⁶

The first steps that employers can take to prevent sexual violence are straightforward. Employers can provide safe working environments for employees and prohibit sexual harassment of employees.

Employers have far more opportunity to intervene in the cycle of family violence and support healthy family life. Employee assistance programs can encourage family mental health. Support groups and discussion groups can reinforce parenting skills. Company time, company newsletters and paycheck envelope "stuffers" can be used to provide education to prevent family violence.

A recent sampling of large companies found a range of different approaches. The Control Data Corporation has sent invitations to their

employees to consult a company psychologist or outside therapist on a confidential basis if they want help with family violence problems. Honeywell and 3M have hosted lunchtime seminars on parenting skills. 3M has also organized support groups for step-parents and single parents. DuPont has prepared and distributed a booklet on personal safety and has begun workshops for women who are victims of physical or psychological abuse. These are useful beginnings of corporate responsibility to support family health and prevent sexual violence.

RECOMMENDATIONS:

1. Employers should implement clear, enforceable sexual harassment policies and provide on-site training to employees to prevent sexual harassment.

2. Employers should provide safe working environments for their employees. Some ways to implement workplace safety might include safe physical plant, adequate security systems, escort services during non-peak hours, adequate lighting in all areas and employee training in prevention of assaults.

3. Employers should offer referrals to and insurance coverage of counseling services for employees dealing with family violence issues, chemical dependency, sexual aggression and the experience of victimization.

4. Employers should be aware of resources available in the community to increase parenting skills, prevent chemical dependency, and prevent family and sexual violence. Employers should inform employees of community services and programs through customary methods of communication, such as company bulletin boards and newsletters, staff meetings and payroll stuffers.

5. Employers should be encouraged to provide in-house educational programs and support groups to encourage parenting skills and prevent family and sexual violence.

B. Support for Parents

Even programs which provide workshops and counseling to promote healthy employees only scratch the surface of the potential which employers

have to support families and prevent future violence. The Task Force heard that, to strengthen families, what is really needed in the workplace are flexible schedules, support for child care and leave policies which permit parents to meet the basic needs of their children.

RECOMMENDATIONS:

1. Employers should adopt reasonable provisions to permit employees to job-share or work on flexible or part-time schedules.

2. Employers should support accessible child care for their employees by providing on-site child care where appropriate and by providing financial support for child care in employee benefit packages.

3. Employers should adopt leave policies which support parents' needs to care for children at the time of birth, adoption, sickness or trauma.

III. MEDIA

The electronic and print media play a critical role in perpetuating attitudes which foster sexual violence. Depiction of gratuitous violence, promotion of gender inequality, racial stereotypes and exploitation of sexuality all perpetuate cultural norms which sustain sexual aggression.

However, even if the media are sometimes part of the problem, they can also be part of its solution. The way in which news media treat sexual violence can have a significant impact on public awareness. The spotlight of media attention can generate support for needed public policy. There can be no question that the news media have played a positive role in the formation of this Task Force and in permitting the public to become informed of its deliberations.

The most powerful persuasion available in our culture is not always in the classroom. To succeed in changing attitudes, we need more than a curriculum on preventing sexual violence. We must use all the marketing expertise developed for consumer products to promote healthy sexuality and gender equality.

Prior public service campaigns from Project Lifesaver (seatbelt use) to anti-smoking campaigns funded by state and federal appropriations have

contributed to changes in cultural norms pertaining to dangerous behavior. A relatively small appropriation can provide resources for a substantial campaign, since marketing professionals can often enlist media and corporate sponsors to contribute additional time and effort.

The Task Force also learned that Minnesota has funds available under the federal Anti-Drug Abuse Act of 1986 to support community-based education and prevention programs to promote a drug-free lifestyle. The Alliance for a Drug-Free Minnesota, a school-based program initiated by Attorney General Humphrey, has involved students, local businesses and sports figures to develop campaigns against drug abuse. Prevention of sexual violence should also be supported at the community level.

RECOMMENDATIONS:

1. The electronic and print media must be encouraged to present pictorial images, programming and reporting which contribute to healthy sexual attitudes, non-violence and respect among women and men and among various racial and cultural groups.

2. The legislature should provide state funds and initiate a request for proposals from private public relations and advertising firms to develop a state-wide public information and communication campaign designed to prevent sexual violence.

3. The legislature should provide state funds and initiate a request for proposals to involve schools and other community groups in development of public information campaigns to prevent sexual violence. These campaigns should be targeted for various culturally and racially diverse parts of the community.

4. Foundations should be encouraged to provide challenge grants to fund specialized public information programs and campaigns to change attitudes that foster sexual violence.

IV. RELIGIOUS INSTITUTIONS

Religious institutions serve to shape the ethical, moral and spiritual lives of citizens in our communities. Religious schools and worship services promote moral values. Education is also provided through congregational events, premarital counseling and pastoral services. Religious authorities

may be the first people to whom victims of sexual abuse turn for solace and perpetrators of sexual aggression turn for absolution. Religious institutions have both the resources and the trust of the community to provide child care, outreach and support for families.

The Task Force heard testimony suggesting that, in certain cases, theology had been misused to justify and perpetuate sexual violence. Witnesses explained that biblical texts had been used to define a descending order of hierarchy from God to men to women and then to children. The Task Force also heard that some religious institutions have missed an opportunity to educate their congregants about sexual violence by denying that "nice people" can be concerned with this issue. As stated in a circular entitled "Families and Violence: The Church's Role" prepared by the American Lutheran Church,²⁷ "Our greatest challenge may be to admit the fact that we have a problem."

Religious leaders, individually, serve as vital role models for their congregants. Their personal conduct, concerns and convictions can serve to educate and influence the many people whose lives they touch. Religious leaders and religious schools may play an important role in supporting self-esteem of children and congregants and in defining attitudes toward sexuality. Witnesses testified that religious institutions have a unique opportunity to teach positive parenting skills, healthy sexual attitudes and loving values.

The Task Force heard testimony that several religious institutions have already begun to respond to the challenge of using their moral and spiritual influence to reduce the threat of sexual violence. The circular described above gives clear prescriptions for theology and practice to prevent violence within the family. The Task Force was informed that the Catholic Archdiocese was developing a program and manual to address the problem of sexual harassment. A church in Stillwater has focused congregational events around "healthy sexuality month." A Jewish day school begins its kindergarten curriculum by teaching that our bodies are beautiful works of creation. Lessons on preventing violence against women have been introduced in several congregations as part of confirmation class teachings.

There is a great potential for religious institutions to take a leadership role in changing attitudes and belief systems which perpetuate sexual violence.

RECOMMENDATIONS:

1. Religious leaders should be encouraged to use their role as leaders in the community to promote non-violence, with equal respect for women, men, and children.

2. Religious institution should be encouraged to develop policies which clarify appropriate sexual boundaries between the clergy and the congregation. Clear consequences should be provided for inappropriate sexual conduct.

3. Seminary students and clergy members should receive culturally sensitive training on the incidence and dynamics of sexual violence, presented with ways in which they can provide support to victims and teach values which reduce the incidence of sexual violence.

4. Religious institutions should be encouraged to notify members of the availability of confidential counseling for persons who are struggling with issues related to sexual aggression. Religious leaders should be encouraged to include discussions of violence, non-violent conflict resolution and stress reduction in premarital counseling.

5. Each religious institution should be encouraged to offer educational programs and use rites of passage as educational opportunities to build self-esteem, encourage healthy sexuality, teach prevention of sexual and physical abuse and provide an overall respect for the sexual integrity of all individuals.

6. Religious institutions should be encouraged to offer open discussion and information sessions on topics of sexual violence and violence within the family.

7. Religious institutions should be encouraged to plan worship services and congregational events which promote non-violence and equal respect among women, men and children.

V. COMMUNITY AND CIVIC ORGANIZATIONS

Charitable and civic organizations have the potential to serve the community by working to prevent sexual violence. Youth groups, such as the Boy Scouts, Girl Scouts, 4-H and Campfire Girls, have traditionally

incorporated education and achievement into their programming. Children have received rewards ranging from merit badges to contest prizes for mastery of information and involvement in community projects.

Service organizations, such as the Lions, Jaycees, Kiwanis and Elks clubs' have traditionally used fundraising techniques including bingo games and raffles to sponsor programs of benefit to the community. In some areas, funds raised by service organizations have been donated to support drug awareness programs.

Family-oriented organizations have sponsored educational forums and have adopted curriculum projects to benefit families and the community. The National Council of Jewish Women supported development of a videotape to prevent family violence. The Y.W.C.A. has developed a program for children called Kidability to encourage self-esteem and personal safety. These organizations also touch the lives of a cross-section of our society at play and sustain services ranging from child care to senior citizens outreach.

Citizens organizations which review issues and develop public policy goals have a great deal of potential to define the social agenda and call attention to pressing problems in our society. Groups such as the Citizen's League, the League of Women Voters and the Progressive Roundtable share responsibility for encouraging prevention of sexual violence.

Charitable giving organizations have a great deal of influence over the direction of social programs. Funding priorities can influence whether there are resources available for prevention of sexual violence.

The Task Force has determined that it is important to encourage every community and civic organization to play a role in prevention of sexual harassment and sexual violence. Particular emphasis needs to be given to organizations with direct access and responsibility to boys and young men which can change attitudes and build support networks to reduce sexual violence. Emphasis must also be placed on building the self-esteem of all children and development of parenting skills which will safeguard all children from abuse and neglect.

RECOMMENDATIONS:

- 1. Youth-serving groups should be encouraged to sponsor educational programs and expose their members to curricula targeted at prevention of sexual violence and to incorporate into any merit program, contest or recreational project efforts to prevent**

sexual violence.

2. Service organizations should be encouraged to adopt and sponsor projects in the community which provide education and support for prevention of sexual violence.

3. Family-serving organizations should be encouraged to provide community events and curricula which prevent sexual violence, to develop support systems for at risk children and families and to provide positive opportunities to learn parenting skills.

4. Citizens' organizations which study issues and propose policy initiatives should be encouraged to target prevention of sexual violence as a critical issue for review and recommendations.

5. Charitable giving organizations should be encouraged to support programs and initiatives designed to prevent sexual violence.

VI. CHILDREN IN NEED OF PROTECTION OR SERVICES

Early intervention with children who are acting in sexually aggressive ways is essential to prevent future sexual violence. Practitioners expressed frustration that these children are falling between the cracks of our criminal justice and social welfare system. An example was described for the Task Force of a young boy who was repeatedly assaulting little girls in the neighborhood and attempting sexual contact. Both law enforcement authorities and child protection workers were contacted. Neither felt that they had jurisdiction to intervene.

A child who is sexually assaulting other children is covered under the 1988 legislation for children in need of protection or services (CHIPS). The juvenile court can compel provision of services or protection for a child under age 10 who commits delinquent acts, including sexual assault, or for a child whose behavior or condition is endangering himself or others. Minn. Stat. § 260.015, subd. 2a., (9), (10) (1988).

But, the Task Force learned, current laws may provide a barrier to entry of these children into any system which can provide assessment and needed services. Under current law, unless there is evidence of child abuse or neglect, there is no requirement that anyone report sexually assaultive

children. Unless there is reason to believe a child has been abused or neglected, no agency is given the authority to accept reports, investigate or assess if the child or family needs services.

The statutory language of the reporting statute defines "neglect" to include "failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health." Minn. Stat. § 626.556, subd. 2 (c)(1988). It does not explicitly require protection if a child is endangering others. Even though child sexual aggressors are likely to also be victims of physical or sexual abuse, their victimization may not be evident. The training of child protection workers is also focused only on protection of child victims.

The gaps in the current child protection system bar access of children to needed services. They may result in further victimization of children. Over the course of years, if the patterns of sexual aggression persist, the failure to intervene with children identified to be at risk may also impair our ability to provide for future public safety.

The Task Force concluded that children who engage in sexually aggressive acts as well as child victims of assault may require assessment and services, including treatment. But, care should be used in bringing these children into the social welfare system. Social service personnel should not be asked to become involved unless there is a pattern of behavior which endangers the child or others. Efforts must be taken to avoid stigmatizing children. A professional assessment by consultants who have expertise in determining psychosexual health should be used to evaluate what services, if any a child or family may need. Finally, it was emphasized to the Task Force that neither child protection nor the juvenile court should impose services unless the child's parents fail to take the action needed. Requiring child protection to intervene in all cases of child sexual aggression could cause problems yet more serious than those posed by the children's behavior.

RECOMMENDATIONS:

1. The legislature should amend the reporting law to clarify that reporting of child "neglect" should include cases where the person responsible for the child's care fails to provide a child with care or protection when the child is demonstrating a pattern of sexual aggression which seriously endangers the child or other persons.

2. The Department of Human Services should provide training and technical assistance to child protection workers and mandated reporters to support implementation of intake, assessment and provision of services for child neglect cases involving sexually assaultive children.

3. Local welfare agencies should identify consultants with expertise in determining psychosexual health to evaluate the need for services when allegations of neglect of sexually assaultive children are substantiated.

4. Child protection workers should initiate a CHIPS (child in need of protection or services) petition where it has been substantiated that a sexually assaultive child is in need of protection or services and the person responsible for the child's care is unwilling to voluntarily take the action needed or accept the needed services.

5. The legislature should make a comprehensive review of the mandated reporting law for child abuse and neglect and the law pertaining to children in need of protection or services (CHIPS) to eliminate gaps and inconsistencies between the laws and develop a more effective way in which to intervene and provide protection of children and services for families.

VII. PUBLIC PROGRAMS TO SUPPORT FAMILIES

Child protective services are the first break in the chain of violence which can continue for generations. Statutes clearly provide authority to child protection workers to identify, report, assess and intervene when children are being abused and neglected. The Task Force heard little criticism of the laws which have been enacted to protect children.

But protection of children from family violence requires adequate staffing and training. Several Task Force members raised concerns that child protection services are overloaded. The flood of reports and incidents have far overwhelmed existing resources provided to assist and protect children. Even cases of life-endangering abuse or neglect may be lost or overlooked.

The Task Force also concluded that primary prevention of sexual assault requires more than an effective response to family violence. There is growing recognition that prevention of child abuse and sexual violence requires an investment in positive family functioning. Only when we invest

in support for families is there a chance that the cure may get ahead of the disease.

Two initiatives in state government which begin to respond to the need for primary prevention were highlighted in testimony to the Task Force. An effort has just begun to involve the Departments of Education, Human Services, Health, Corrections, Public Safety and State Planning in developing a state plan for prevention. These departments have been asked to make an inventory of their current prevention activities. But information presented to the Task Force suggested that this inter-agency group had yet to develop any plan of action to strengthen or integrate state programs which provide support for families.

The Task Force also obtained information about the Children's Trust Fund, which was established by the legislature in 1986. Minn. Stat. §299A.20 (1988). The Children's Trust Fund awards grants to community programs which prevent child abuse and neglect by encouraging positive family functioning. In response to the notice that grants would become available from the Children's Trust Fund, forty-four counties have established local child abuse prevention councils and are now authorized to review proposals seeking trust fund money.

There are a broad range of community programs which can serve as primary prevention. These include parenting skills classes; home visitor and home health aide programs; screening of children for medical problems, mental health needs and abuse and neglect; day care, nursery school and latch-key programs; therapeutic and emergency day care and foster homes; support groups for at-risk parents and children; and social networks created through parents' groups. Public health nurses and aides have provided both outreach and support to parents of young children. Public health programs also have a great potential for early detection of children at risk.

Providing mental health services to families and children is also a critical part of prevention of sexual violence. In the current emphasis on public health and public communication, it should not be forgotten that some of the most important work in preventing sexual violence can occur when mental health services are provided to individual troubled families.

Private self-help groups such as the Minnesota Early Learning Design (MELD) program provide another model for primary prevention. MELD provides a network of groups led by parents for other parents of children from birth to three years old. MELD groups teach parenting skills and

provide self-help and support. New social structures may be needed to provide some of the resources which families need to nurture healthy children.

RECOMMENDATIONS:

1. The legislature should provide adequate personnel, resources and training for child protection services so that laws pertaining to child abuse and neglect can be effectively implemented.

2. Public and private agencies which fund prevention programs should support treatment of families in which sexual violence has occurred as an essential part of prevention.

3. State agencies should develop a practical, coherent plan to coordinate state programs in health, education, human services, corrections and public safety in order to enhance primary prevention.

4. The legislature should evaluate all new program initiatives in health, education, human services, corrections and public safety according to their impact upon primary prevention. Program initiatives should be modified and priorities set based on this evaluation.

SERVICES FOR VICTIMS OF SEXUAL VIOLENCE

I. OVERVIEW OF NEEDED SERVICES

The experiences of victims must determine what services should be available for victims of sexual assault. Whether or not a victim reports the crime, the availability of crisis intervention, counseling and support from the community can lessen the isolation and fear that victims experience and help victims recover from the grief, anger, violation of trust and sense of loss caused by rape.

In the acute phase, which may last a few days or a few weeks, victims may suffer either expressed or controlled anger, fear, anxiety, humiliation, guilt or shame. Victims of sexual assault may have physical injuries which require immediate medical attention. They may suffer from disorganized sleep patterns, including insomnia and nightmares or disturbance of eating patterns. Personal relationships, work and concentration may all be disrupted.²⁸

Crisis intervention services must be available to victims of sexual assault in the aftermath of the crime. Victims should be able to speak immediately and directly to a counselor, advocate or other professional trained to respond to the needs of sexual assault victims. It was suggested to the Task Force that the urgency of this need may require 24-hour toll-free phone lines and 24-hour on-call counseling staff.

Victims of sexual assault will require medical services both to diagnose and treat any injuries and to collect evidence for possible criminal prosecution. Victims may have concerns about pregnancy and the transmission of AIDS or venereal disease during the assault. A victim should have the right to sensitive, private and competent medical treatment to care for physical injuries, whether or not she chooses to report a crime. Evidence of the crime should be collected if a victim reports the assault or believes that she may later choose to make a report.

Law enforcement officers play an important role in the immediate aftermath of an assault. The initial response from police may needlessly violate privacy and blame the victim. On the other hand, police officers can provide strong affirmation of a victim's concerns as well as dedication to her protection and the apprehension of the rapist. A victim may need support,

advocacy or accompaniment from a sexual assault victims' advocate in going to a hospital or to the police.

In the first few hours or days after an assault, a victim's most pressing needs may be related to her safety and that of her family. Victims of physical abuse within the home may also be victims of sexual assault. A speaker from the Women's Shelter, Inc. in Rochester testified that since 1982 her program had been asking battered women about sexual assault. More than 90 percent of the battered women had also been sexually assaulted by their partners. ²⁹ Records maintained by the Department of Corrections indicates that at least one-third of the battered women sheltered in Minnesota have also been sexually abused.

For women who have been assaulted by their partners or otherwise assaulted in their homes, the most pressing need may be for a safe refuge away from home. Any victim of sexual assault may need emergency child care or transportation in order to obtain medical care, counseling services or access to law enforcement.

Beyond the immediate crisis of the assault, victims continue to suffer from the effects of rape. Long after the acute phase of trauma from the rape ends, a victim may have phobias, including fear of crowds or fears of being alone. Victims may move because of a rape. Nightmares, including dreams of violence and loss may disturb the victim's sleep. The Task Force heard testimony that the effects of the assault persist many months after the crime and conviction:

It is still difficult to be home alone, but there are days I must be at home. I feel that I cannot go outside, someone may see me and assault me. When I am outside, especially when working in the garden, I always stand facing the highway. When I see a car in the distance, I kneel down so I am not seen.

Since the [rape] I have had nightmares, frightening experiences when around strangers, even in crowds. I have not been able to stay home alone, and have difficulty being alone, even when shopping at the mall with many people around.

I have many nightmares about strange vehicles in our driveway and being home alone; nightmares about begin thrown down on the ground, in which can feel myself flying through the air; about answering the door and trying to close it after seeing who is there and the person forcing the door open while I'm fighting to close

it; and about being thrown from a car into a ditch in the middle of nowhere.³⁰

Victims of sexual assault may have difficulty concentrating at work and continuing problems with intimate relations. Even victims who appear to have made an immediate psychological adjustment may develop rape trauma symptoms months or years later. Victims with a prior history of psychiatric problems, incest or other prior trauma may see these prior conditions reactivated or exacerbated. Rape trauma may trigger memories of prior trauma. Any victim of sexual assault may suffer long-term impairment of relationships or loss of self-esteem.

The destruction caused by sexual assault is not limited to the individuals who were actually raped. Family, friends and partners who are survivors of the assault may also be its secondary victims. The Task Force heard testimony from the sister of a woman who was raped and murdered:

My sisters and I could not leave our houses. We were paralyzed by fear, We still cannot go in our basements or be alone in our houses out of a fear that some unseen danger could snatch us as quickly as it surprised and snatched [my sister].

Now the shock has lifted but counselors tell us that it will be at least two years before we feel comfortable again. We know that we will never be the same.³¹

Victims of sexual assault may need long-term support or counseling, ranging from support groups for primary or secondary victims to intensive individual therapy.

If a victim reports the crime and pursues criminal prosecution, prosecutors, judges and their staff become critical to provide services to victims of sexual assault. Victims need information about all of the stages of the criminal justice process and the expectations which will be placed on them. They need support and consultation as witnesses, including notification of the case status and hearings. They have rights to participate in sentencing hearings, and may need assistance in preparing an impact statement. From reporting through conviction, sentencing and the eventual release of the sex offender to the community, victims have a vital need for information and protection from revictimization.

A critical part of the support for victims may be provided beyond the circle of professionals who provide direct services to victims of sexual assault.

Criminal sentencing can provide protection from revictimization. Punishment communicates both to the victim and to her community that it was the offender, not the victim, who must be held responsible for the assault. Schools, religious institutions, and public media can support victims of sexual assault and provide affirmation that they are not to blame for their victimization. The personal strengths which victims derive from their own relationships and communities may be the most important resources for recovery from sexual assault.

RECOMMENDATIONS:

1. Each community should be responsible to assure that the following services are available for all victims of sexual assault: crisis intervention; medical services; support and long-term counseling; information, advocacy and assistance throughout criminal justice prosecution, and protection from further victimization, including safe shelter, where needed.

2. Employees of all the systems throughout the community which work with victims of sexual assault, including the criminal justice system, victim/witness programs, medical system and social services should receive specialized training in the needs of victims of sexual assault.

3. Meeting, examination and interview areas for victims of sexual assault in all systems throughout the community should assure privacy and confidentiality.

4. Battered women's shelters and programs should be supported to provide refuge for victims of both physical and sexual abuse.

5. Crisis intervention and supportive counseling should be available for secondary victims of sexual assault as well as the primary victims of the crime.

II. ACCESSIBILITY OF SERVICES

A. Availability throughout Minnesota

The availability of specialized programs for victims of sexual assault varies widely across the State. Sexual assault programs may provide critical

support for victims in the immediate aftermath of an assault. They provide crisis counseling, assistance in making decisions regarding reporting of the crime, help in obtaining medical services, and assistance in arranging for a safe place to stay, and for transportation and child care as needed.

Sexual assault programs often provide advocacy and accompaniment throughout the criminal justice process. They may provide assistance at trial or work in cooperation with a victim/witness program in a county attorney's office. Sexual assault programs provide support counseling in a group or individual setting and may refer victims to appropriate therapists in the community if intensive or long-term psychotherapy is needed.

These programs also often coordinate services available to victims throughout the community and educate the public and professional community about the needs of sexual assault victims. During this past year alone, local sexual assault programs provided training for 13,658 professionals, including medical and legal personnel, human service providers, teachers and clergy.

There are many areas of Minnesota where victims of sexual assault have no access to specialized programs. Only 28 counties (about one-third) have a program located in that county which serves sexual assault victims. Another 37 counties are served only through outreach services. What this means is that programs located in another county provide direct services to victims, usually through local volunteer advocates. Almost one-fourth of Minnesota counties (22 counties) have no formal services for sexual assault victims. Very limited services may be provided by a knowledgeable therapist or by a small, all-volunteer group.

The problem of insufficient support for sexual assault programs was stressed at the Task Force's hearing in Marshall. A speaker with the Southwest Minnesota Sexual Assault Program testified that her program served an area of 3000 square miles with a population of 44,000 people. This program receives less than \$15,000 in state and federal funds to sustain three part-time employees and provide services to victims of sexual assault throughout this huge area.³² A speaker from the Listening Ear program in Alexandria testified that her program covered six counties and served 300 primary victims, 250 victims needing brief support and 150 secondary victims in 1987 alone. This program has only two paid staff.³³

Where staffing is inadequate, victims may never learn of the availability of programs. The few services available may be inaccessible,

particularly if a victim lacks transportation. In a survey conducted by the Department of Corrections to obtain information for the Task Force, fewer than one half of the programs in Minnesota said that they had advocates readily available within sixty minutes for face-to-face contact with a victim. Few programs in rural areas of the State had toll-free phone numbers to permit victims to call anonymously and without charge to reach support and assistance.

RECOMMENDATIONS:

1. Specialized services for victims of sexual assault should be established to serve victims in the one-quarter of Minnesota counties which currently have no sexual assault program.

2. Existing services for victims of sexual assault should be expanded so that citizens throughout Minnesota have local access to specialized services for victims of sexual assault.

3. Victims of sexual assault in all areas of Minnesota should have access to toll-free phone lines to reach assistance and support in a time of crisis.

B. Access of Underserved Groups to Services

The need for a comprehensive system of services for sexual assault victims from the Black, American Indian, Hispanic and Asian communities has been addressed in more detail by other sexual assault work groups, such as the Hispanic and the Black Focus Groups of Project IMPACT (1988) and the Department of Corrections Training Program for Minority Service Providers (1984). The Task Force also heard testimony that additional efforts must be made to insure that services for victims of sexual assault are available for and responsive to all groups within the community.

There has been a great increase in the number of victims of sexual assault from each of the four major people of color groups - American Indian, Asian, Hispanic and Black - contacting programs funded by the State. From 1982 through 1985, the number of American Indian victims of sexual assault contacting sexual assault programs increased by 253 percent; the number of Asian victims increased by 271 percent; the number of Hispanic victims increased by 86 percent and the number of Black victims making

contact with programs funded by the State Department of Corrections increased by 11 percent.

The Task Force heard testimony from a community specialist from the Minnesota Migrant Council in Minneapolis that she is presently the only full-time Hispanic sexual assault counselor in the State of Minnesota. When a Hispanic woman in Greater Minnesota is raped, she must travel hundreds of miles or wait several days if she needs to speak with a Hispanic counselor. There is also only one full-time American Indian and one full-time Black sexual assault counselor in the State hired specifically to reach their respective populations.

The Task Force heard that there are important differences between cultures in the way rape is viewed and the way law enforcement and other services in the community are viewed. Language barriers can be critical to victims of sexual assault. Even a woman who is fluent in English in talking about work or play may need to speak in her own first language to communicate the personal trauma of rape. Sexual assault services must also be able to respond to cross-cultural differences in family systems and the religious and spiritual needs of victims.

Special efforts and sensitivities are needed for outreach to victims in various communities. An example was brought to the attention of the Task Force by a member from the American Indian Community. More than ten years ago, the Sexual Assault Resource Service (SARS) was developed at the Hennepin County Medical Center to use professionally trained nurses in its emergency room crisis intervention program. After SARS was established, the return rate of victims seeking follow-up medical care shot up from about 25 percent to 95 percent. The only survivors who were not coming back were American Indian women.

When the SARS program was brought to Mount Sinai Hospital, near a major Indian community, special efforts were made in order to be more responsive to the needs of American Indian women. An Indian advocate was hired and nurses were given special training to be more sensitive to Indian cultural needs and expectations.

Lesbian and gay victims may experience assault related to their sexual orientation. In 1984, the National Gay Task Force reported that of 2000 respondents to a survey, 90 percent reported some form of assault, threat or harassment due to their sexual orientation. Lesbian and gay victims face the possible loss of employment, housing or education if their sexual

orientation is identified in the course of prosecution. Lack of civil rights and attitudes of intolerance for gays and lesbians may prevent reporting and prosecution and foster further sexual violence.

Many services for victims of sexual assault are inaccessible to people with disabilities. In a survey conducted by the Department of Corrections last October, only seven of the thirty-four sexual assault programs in Minnesota reported that TDD facilities to make telephone communication possible for hearing impaired victims were readily available. For one-third of the programs, simple physical access to the office was not readily available for persons with disabilities.

Several witnesses discussed the need to provide services to male victims. Sex role stereotypes and cultural bias have created barriers to identification and treatment of male victims. One professional who works with sexual assault victims noted that in her experience, adolescent males were more likely to admit being perpetrators than to admit that they had been victimized. They saw less stigma in the role of rapist than that of rape victim.

Differences in the socialization of males and females result in different emotional and behavioral responses to victimization. However, male victims of sexual crimes experience a level of trauma as significant as that experienced by females. Witnesses informed the Task Force that male victims of sexual assault may have virtually nowhere to go to obtain services sensitive to their needs.

RECOMMENDATIONS:

1. All of the systems throughout the community which work with victims of sexual assault, including the criminal justice system, medical services, social services and sexual assault programs should take proactive steps to recruit and employ staff members from underserved groups including people of color, lesbian/gay and disabled persons.

2. The State of Minnesota should provide leadership and resources to recruit and train people of color for employment in sexual assault programs, the criminal justice system, medical services and social services.

3. Employees of all systems throughout the community who work with victims of sexual assault should receive training in the special needs of

gay/lesbian and disabled victims and victims who are people of color, including cross-cultural training in each of the four major people of color groups in Minnesota. Professional organizations should examine the feasibility of implementing such training in licensure, certification and continuing education programs.

4. Community task forces, teams and state projects planning or implementing recommendations for victims' services should seek a diverse representation in their groups, including people of color.

5. The Department of Corrections should support research to assess the needs for sexual assault services in communities of color. This research should be approached from the perspective of and with the participation of the affected community of color.

6. Services for victims should include outreach into communities of color, including Indian reservations and migrant farm worker populations. These services should support victims to facilitate criminal prosecution in cases involving victims who belong to these communities.

7. Services throughout each community for victims of sexual assault should include staff members who meet the linguistic needs of victims and assure the availability of interpreters (sign and non-English languages) who have received specific training regarding sexual assault.

8. Services throughout each community for victims of sexual assault should be accessible to physically handicapped persons and should have special telephone equipment so that hearing impaired persons can communicate. (TTY or TDD)

9. Specialized services for male victims of sexual assault should be available for victims throughout the State.

III. SUPPORT FOR PARTICIPATION IN THE CRIMINAL JUSTICE SYSTEM

The Task Force heard testimony that victims of sexual violence who have access to responsive services within their communities will be more likely to report crimes of sexual violence. It is well recognized that only 10 to 30 percent of victims of sexual assault ever report the crime. If advocacy is part of an initial consultation with a sexual assault survivor, the rate of

reporting increases to 50 to 70 percent.³⁴

There has been an increasing recognition of the importance of providing support to victims of crime throughout the criminal justice process. Trial procedures and tactics may leave victims feeling powerless or traumatized. The criminal justice system may place great stress on victims of sexual assault.

Since 1974, victims in Minnesota have been afforded increasing legal rights to participate in and be provided with protection by the criminal justice system. Among the rights which victims of sexual assault are afforded by law are the right to have notice and to state opinions to the court when plea bargains are being considered and the right to present a victim impact statement to the court, either in writing or orally, before the court sentences the offender. Minn. Stat. §611A.03, §611A.038 (1988). Victims also have the legal right to be informed about changes in trial schedules, Minn. Stat. §611A.032-33 (1988) and the right to a separate waiting area in the courthouse where provision of such an area is practical, Minn. Stat. §611A.034 (1988).

The enforcement of these rights is piecemeal. There are no legal consequences for failure to comply with the rights of victims. In 1986, however, the legislature established the Office of Crime Victims Ombudsman to monitor compliance with victims' rights and to investigate complaints from victims who believe that their rights have been violated.

The Task Force heard testimony that the inclusion of victim/witness services in prosecutors' offices strengthens the implementation of victims' rights. Victim/witness programs provide services ranging from preparing a victim for testimony to intervening with employers to make sure that victims aren't penalized for trial participation. Personnel in these programs have the opportunity to develop a close working relationship with prosecutors. One sexual assault victim testified that the advocate within the prosecutor's office delivered a bunch of balloons to her when the jury returned its guilty verdict. She praised both the county attorney and the victim/witness program and stressed that their support made it possible to withstand facing the perpetrator and his defense counsel through a grueling trial. Although prosecutors in most of the Twin Cities metropolitan counties and in St. Louis and Chisago counties offer victim/witness services, the majority of county prosecutors in Minnesota do not have victim/witness programs.

The Task Force believes that we must make every effort to make it safe for victims of sexual assault to report the crimes committed against them. The Minnesota Legislature has taken some important steps to provide victims with information and protection. But, there are gaps in this protection. Only victims of domestic abuse have the right to be notified if a defendant is released from jail prior to trial. Minn. Stat. §629.72, subd. 6 (1988). Although victims who specifically request notice can obtain information as to the date when a perpetrator is released from prison, they are neither informed of the conditions of release, nor of the corrections agent who should be contacted if the victim is threatened or observes that conditions of release are violated. *See* Minn. Stat. §611A.06 (1988).

Victim advocates have long argued that victims should have access to immediate assistance to protect their safety in the immediate aftermath of the crime. It is not unusual for a sexual assault victim to face terror at the thought of remaining in her own home when that home was the scene of an assault or at the thought of returning home, when an assailant has stolen her wallet or keys. Additionally, if an assault took place in the victim's home, a cut screen, jimmyed lock or broken door may well leave the victim vulnerable to additional crimes.

Victims of sexual assault may need assistance with simple, logistical tasks such as changing locks, changing phone numbers, securing doors and windows. A coordinated response from law enforcement officials to any threats or harassment of victims will not only decrease the risk of participation in the criminal justice system; it may mean the difference between life and death.

Victims also may face economic loss if they choose to participate in bringing their assailant to justice. Witness fees do not cover trial preparation and may inadequately compensate victims. Although a victim cannot legally be fired for testifying, there is no requirement that an employer provide paid leave to employees who serve as complainants or witnesses. Reparations paid through the Crime Victims Reparations Board do not include compensation for time lost from work in order to testify or participate in criminal prosecution.

RECOMMENDATIONS:

- 1. Victim/witness services associated with county attorneys' offices should be established in all counties**

in Minnesota.

2. Prosecutors should solicit and present information pertaining to the risk to the victim of release as part of any bail hearing.

3. If a suspect is released on bail prior to trial, judges should use conditions of release, including no contact orders, to protect victims of sexual assault. If a suspect violates such conditions of release, a warrant for his arrest should issue.

4. Victims who report a sexual assault should be assisted in moving, changing locks, or changing telephone numbers if they believe that they are in danger. Law enforcement should provide a coordinated response to pursue complaints from victims that they are being followed, threatened or harassed.

5. Victims of sexual assault should be given notice when a perpetrator is released either from jail or prison. They should also receive notice of the conditions of release and the person to notify if conditions are violated.

6. The Crime Victim and Witness Advisory Council should examine means to more fully compensate victims/witnesses, including but not limited to increasing witness fees, compensation of victims by employers and/or compensation through the Crime Victims Reparations Board.

IV. SPECIAL CONCERNS OF VICTIMS

A. AIDS

During the course of public hearings, the Task Force heard strong feelings from witnesses regarding the issue of AIDS in sexual assault cases. Increasingly, victims of sexual assault are concerned that they may have been exposed to HIV, the AIDS virus, by their assailants. Several witnesses suggested that sex offenders be tested to provide information to victims.

The Task Force believes that efforts to inform victims of the risk of HIV and protect their partners must focus on the information and services available to victims. The Task Force heard testimony that the best and most accurate information which a victim of sexual assault can obtain about his or her HIV status is by being tested. Many rapes are never reported and many

suspects are never apprehended or are caught long after the crime was committed. Information on such perpetrators may not be available or may only be available long after the victim's exposure. Even a perpetrator who tests negative for HIV at the time of the offense may, in fact, be infected with HIV. It may take three to six months for test results to accurately reflect the presence of infection.

On the other hand, even if the perpetrator of a sexual offense tests positive for HIV, this information does not mean that the victim will become infected with HIV. Epidemiologists believe that the risk of transmission as a result of one exposure to the virus are low. Information that a perpetrator was infected with the AIDS virus may needlessly traumatize a victim of sexual assault whose exposure did not result in infection.

The Task Force also could not resolve serious concerns that any method of testing sex offenders could result in further compromise of the privacy of victims. Members expressed concern that the victim's name would appear in any criminal file which also reflected that a sex offender tested positive for HIV. The mere exposure of the victim to AIDS could add to social stigmatization or even result in denial of insurance coverage. Efforts undertaken to protect victims must not result in their further victimization.

Testimony also raised concerns about the way in which medical providers address the issue of AIDS. Some medical providers advise victims of sexual assault to abstain from sexual contact or practice only safer sex for three months and then obtain an anonymous test for HIV. This practice is thought to provide the best information to victims and the best protection to their partners. Other medical providers may not even discuss the risk of AIDS. The Task Force also heard that some medical providers conduct HIV tests on sexual assault victims as a matter of routine. These tests may show up on invoices for evidentiary exams in cases where the victim neither requested nor was informed that a test would be conducted. A victim's privacy and her ability to obtain health insurance coverage could well be compromised by these tests.

RECOMMENDATIONS:

- 1. All service providers in the medical system should receive training on how to handle AIDS issues in a sensitive way, in order to provide information on the risks of transmission, where to obtain anonymous testing and ways in which to protect partners from**

the chance of exposure.

2. Victims should have the right to anonymous, cost-free AIDS testing. Such testing should be provided statewide through the Department of Health.

3. No victim of sexual assault should be tested for AIDS without his or her knowledge and express informed consent.

B. Pornography

Advocates for victims of sexual assault described cases where victims reported that pornography was involved with perpetration of the crimes against them. Some victims have reported that they have been required to view pornographic materials or that they have been forced to participate in the making of films of sexual acts. The Task Force also heard testimony that there was no proven relationship between viewing sexually explicit materials and engaging in criminal sexual conduct. It was suggested that printed materials which glorify violence but have no sexual content were at least as likely to be related to sexual violence.

The Task Force concluded that additional information was needed to draw any reliable conclusions about the relationship, if any, between these materials and criminal behavior.

RECOMMENDATION:

1. The Department of Corrections should gather systematic data from perpetrators and victims of criminal sexual conduct to determine whether the sex offense involved viewing or use of written, video or other materials, including but not limited to pornographic materials and materials which depict violence.

C. Counseling Issues

The Task Force heard testimony that victims who seek counseling encounter many barriers. Employers often do not provide paid leave for crisis counseling or therapy related to sexual assault. Insurers often require a diagnosis of a mental illness or condition in order to reimburse counseling services. Victim advocates explained that this "diagnosis" is stigmatizing. In

effect, it communicates that there is something wrong with a victim who is traumatized as a result of an assault perpetrated against him or her.

Particular problems are experienced by victims who are participants in a group insurance program. Often, all counseling requests are referred to a central clinic where therapists are chosen by order and availability. The particular therapist to whom a sexual assault victim is assigned may have no specialized training or empathy regarding the needs of sexual assault victims.

RECOMMENDATIONS:

1. Employers should provide paid personal leave for victims of sexual assault to obtain counseling or support services related to the trauma of the assault.

2. Insurance providers should accept a diagnosis of rape trauma syndrome as sufficient to provide coverage for counseling. A prior diagnosis of rape trauma syndrome should not be used as a basis for later denial of insurability.

3. Providers of group insurance should assure that sexual assault victims are treated by and referred to professionals with special training and sensitivity to the needs of sexual assault victims.

D. Extending Statutes of Limitations

Victims/survivors of sexual abuse often do not recognize that the abuse has occurred or discover their psychological injuries until many years after the abuse. The statute of limitations in Minnesota for intentional torts, such as assault, is two years in duration. Minn. Stat. §541. 07. A case must be brought within this time period or it will be dismissed without reaching the merits.

Although the running of the statute of limitations is suspended until a person is 18 years old, the time limit begins to run again as soon as a person reaches his or her eighteenth birthday. Minn. Stat. §541.15(a)(1). Except in the case of fraud, Minnesota statutes do not require that a person have discovered that they were injured in order for a statute of limitations to run.

Although court decisions have specified certain other situations where a "discovery" rule applies so that a person can bring suit many years

after the fact of injury, there is no definitive ruling in Minnesota which determines whether sexual abuse cases should be saved by this rule. The Task Force learned that a civil verdict in excess of one million dollars was won by a survivor of childhood sexual assault in a Hennepin County District Court trial this summer. Unfortunately, the issue of the statute of limitations was not clearly addressed by the trial court, nor was the case appealed.

The inability to seek legal redress for sexual assault may impede the healing of survivors and bar compensation for serious emotional and economic losses. At least one court has recently ruled that a "discovery" rule should be applied to permit litigation by an adult survivor of childhood incest to go forward. (Unnamed plaintiff) v. (Unnamed defendant), Mass., Suffolk County Superior Court, No. confidential, June 21, 1988, reported in 31 A.T.L.A. L. Rep. November 1988 at p. 389. This year, the state of Washington amended its statute of limitations so that the time limit for civil suits for sexual abuse does not begin to run until the victim discovers the nature of the injury. State of Washington, Ch. 144, Laws of 1988 (passed the House on March 3, 1988 in a vote of 45 to 0).

RECOMMENDATION:

1. The legislature should permit tolling of the statute of limitations until a victim of sexual abuse discovers his or her injury so that victims will not be foreclosed from bringing a civil suit for damages when there is a delay in discovery of the injury caused by sexual abuse.

V. COMMUNITY SUPPORT AND EDUCATION

Education and communication are needed to inform victims that services are available to assist them. Victims who never learn of sexual assault services may never realize that there is someone to whom they can turn for support in a time of crisis. In the recent survey of sexual assault programs conducted by the Department of Corrections, many programs stated that they needed more time and resources for public information and outreach to underserved communities. Without such outreach, sexual assault programs can only guess at the need for additional resources and services.

Publication of the availability of services for sexual assault victims

may be as simple as listing crisis phone numbers in the telephone book under "rape" and "sexual assault." Public service announcements and advertisements on television and radio and in print media can publicize the role of victims' services as well as the specific programs available in the community. Law enforcement officers, doctors and nurses who come in contact with victims of sexual assault have an opportunity to advise victims that there are services available to them. Dedicated outreach programs may be the only way to reach groups which have traditionally been underserved, whether due to exclusion, mistrust or cultural and language barriers.

The Task Force heard testimony that the response of the community may retraumatize the victim. One witness testified that the media's characterization of the rapist as an "acquaintance" created a false sense of intimacy and implied to her friends that she must have been in part to blame for the assault. Another witness explained that, in rural areas, the victim is likely to know not only the assailant, but his family and friends, and the employees of the judicial, medical and social service systems. To the extent that these persons blame rape victims, a victim may suffer profound isolation.

Community education plays an important role to the extent which it changes attitudes and responses made by family, friends, employers, schoolmates, members of religious and civic organization or the media. Victims' advocates have long recognized that social services and programs are only the tip of the iceberg of any victim's resources to recover from sexual assault. Victims who can turn to members of their own family and social network for support and assistance will require fewer state services and recover more completely from the trauma of sexual assault.

RECOMMENDATIONS:

1. An intensive public information campaign should be launched by the Department of Corrections to publicize the availability of services for victims of sexual assault. This campaign should involve public and private organizations and should include brochures, telephone and resource directories, advertisements and public service announcements, news conferences and public awareness events.

2. Law enforcement officers and medical system professionals who come in contact with victims of sexual assault should be required to provide

information to victims of any sexual assault programs within their community.

3. Community-wide events should be provided by employers, religious institutions and civic and community groups to dispel myths which blame sexual assault victims and to increase sensitivity to the needs of victims of sexual assault.

CONCLUSION

Throughout the testimony and in Task Force discussions, there has been an acknowledgement that neither the preceding list, nor any list of policy recommendations could cover every strategy which must be used to prevent sexual violence. But, even as this report is being written, many changes have been set into motion to reduce the threat of sexual violence against women.

In response to the work of the Task Force, the Sentencing Guidelines Commission held hearings and adopted modifications of the Sentencing Guidelines which will become effective on August 1, 1989, absent legislative action. These modifications implement many of the recommendations of the Task Force. Presumptive sentences for first, second and third degree criminal sexual conduct were doubled for first-time offenders with proportional increases for criminals with a prior record.

A new weighting for prior felonies was adopted, which gives more weight to crimes in the higher severity levels. Although members of the Task Force believe consequences should not decrease for lesser offenses, the proposed change does effectively increase the weight given to first, second and third degree rape. The proposed sentencing guidelines also increase the number of criminal history points which can be accumulated for serious juvenile crimes, including rape. Most significant, in direct response to the recommendations of the Task Force, the rules which permit judges to impose sentences above the guidelines sentence were changed. In any case where the current and prior convictions are for criminal sexual conduct offenses, the judge may impose a tougher sentence above the guidelines on a repeat sex offender.

As an outgrowth of the work of the Task Force, Attorney General Humphrey has proposed comprehensive legislation to prevent sexual violence. This legislation increases confinement, treatment and supervision of sex offenders through the criminal justice system; requires development of a curriculum in the schools to prevent sexual violence and increases rights and protections for victims of sexual violence. There is considerable legislative support for implementing the recommendations of the Task Force by enacting new laws.

Equally important, many community groups have adopted prevention of sexual violence as a priority for action. The Women's Consortium has given prevention of sexual violence a prominent place in its Economic Action Plan. The Junior League of Minneapolis, Women Come to the Capitol, the Minnesota Women's Political Caucus, the League of Women Voters and other civic organizations have asked for presentations on preventing sexual violence and have asked how they can support the work of the Task Force. Community groups, including churches, schools, scouting programs, groups and charitable foundations have been galvanized to take independent action to incorporate prevention of sexual violence into their own programs and priorities.

There may be other institutions which must yet be challenged to play a role in preventing sexual violence. There are certainly a wealth of additional talents and resources which could be enlisted in this vital task.

But every journey begins with a single step. The policies recommended by the Attorney General's Task Force on the Prevention of Sexual Violence Against Women are intended to provide not the limit, but the foundation for long-term prevention of sexual violence. If, after reviewing these recommendations, a careful reader has yet additional suggestions for how our community can prevent sexual violence, the Task Force will have more than succeeded in its mission.

NOTES

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12. Testimony of Michael Paymar in Duluth, Minnesota on August 31, 1988.
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20. "FBI Study Uncovers the Real 'Serial Rapist,'" Crime Control Digest, September 12, 1988, vol. 22, no. 37.
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31. Testimony of Ellen Foley in St. Paul, Minnesota on July 27, 1988.
32. Testimony of Gwenn Johnson, Program Director of Southwest Minnesota Sexual Assault Program in Marshall, Minnesota on September 1, 1988, testimony of Dottie Bellinger, Assistant Director, Minnesota Program for Victims of Sexual Assault, Department of Corrections in St. Paul, Minnesota on September 15, 1988.
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SOME RESOURCES AVAILABLE FOR EDUCATION/PREVENTION OF SEXUAL VIOLENCE

MATERIALS AVAILABLE IN MINNESOTA:

Power to Choose

Minnesota Coalition for Battered Women
(prevention of violence against women)
St. Paul, MN
612-646-6177

Project SAFE [Safety and Fun for Everyone]

(K-6, self-esteem, prevention of abuse)
Rape and Sexual Assault Center
612- 374-3125

Sexual Assault: A Statewide Problem and other titles

Minnesota Documents Division
117 University Ave. (Ford Building)
St. Paul, MN 55155
612-297-3000

S.H.A.R.P. [Sexual Health and Responsibility Program]

(prevention of sexual violence curriculum
for adolescents)
Department of Human Services
St. Paul, MN
612-297-3634

Sexual Harassment to Teenagers: It's Not Fun--It's Illegal

(prevention of sexual harassmen in schools)
Department of Education
St. Paul, MN
612-296-7430

"Touch" & "No Easy Answers"

(self-esteem and prevention of sexual abuse)
Illusion Theater
Minneapolis, MN
612-339-4944

ADDITIONAL CURRICULUM MATERIALS:

Alternative to Fear

101 Dickerson, Suite 150
Seattle, Washington 98109
206-328-5347

Aquaintance Rape Program (1977)

Four 8 minute, 16mm films
Coronet/MTI Films and Video
1-800-621-2131

Incest: The Victim Nobody Believes (1978)

20 minute, 16mm film
Coronet/MTI Films and Video
1-800-621-2131

A Night Out

9 minute, 16mm film
Presented in American Sign Language
D.D.N. Productions Inc.
74 Varick St., Suite 304
New York, NY 10013
212-431-8923

RED FLAG GREEN FLAG™

Resources

(Prevention programs for children, training)
Rape and Abuse Crisis Center
P. O. Box 2984
Fargo, ND 58108
701-293-7298

Shattered (1980)

17 minute, 16mm film
Coronet/MTI Films and Video
1-800-621-2131

Treating the Sexual Assault Victim

Two filmstrips and cassettes
Film and Video Service
Box 299
Wheaton, IL 60187
312-682-4500

Beyond Rape (1984)

28 minute, 16mm film
MTI Teleprograms Inc.
108 Wilmot Road
Deerfield, IL 60015
1-800-621-2131

Investigation of Rape (1977)

20 minute, 16mm film
Coronet/MTI Films and Video
1-800-621-2131

Not Only Strangers (1980)

23 minute, 16mm film
Coronet/MTI Films and Video
1-800-621-2131

The Power Pinch: Sexual Harassment in the Workplace (1981)

Coronet/MTI Films and Video
1-800-621-2131

The Rape Examination

22 minute, 16mm film
Abbott Laboratories
28 minute, 16mm film
Dept. 383, Abbott Park
North Chicago, IL 60064
312-937-3933

Some Secrets Should Be Be Told

10 minute, 16mm film
Coronet/MTI Films and Video
1-800-621-2131

Why Do You Tell (1978)

11 minute, 16mm film
Coronet/MTI Films and Video
1-800-621-2131

SEXUAL ASSAULT SERVICES IN MINNESOTA

ANOKA COUNTY

* Victim Witness Assistance Program
Anoka County Attorney's Office
Courthouse
Anoka, MN 55303
PH: (612) 421-4760, Ext. 1192
HOTLINE: (612) 427-1212

BELTRAMI, CASS AND HUBBARD COUNTIES

* Sexual Assault Program
P. O. Box 1472
Bemidji, MN 56601
PH: (218) 751-9496
HOTLINE: (218) 751-0211

BLUE EARTH COUNTY

* Sexual Assault Services
410 S. 5th Street
Mankato, MN 56001
PH: (507) 625-3031
HOTLINE: (507) 388-9221

CARVER COUNTY

* Carver County Program for Victims
of Sexual Assault
Jonathan Association Building
111000 Bavaria Road
Chaska, MN 55318
PH: (612) 448-5425

CLAY, BECKER & WILKIN COUNTIES

* Rape and Abuse Crisis Center
P. O. Box 2984
Fargo, ND 58108
HOTLINE & Office: (701) 293-RAPE
or (701) 293-7273

Center for Parents and Children
Townsite Centre
810 4th Ave. S.
Moorhead, MN 56560
PH: (218) 233-6158

CLAY, BECKER, WILKIN Cont.

Lakes Area Services for Rape and
Domestic Violence
P. O. Box 394
Detroit Lakes, MN 56501
HOTLINE: (218) 847-7446

COOK COUNTY

* Cook County Women's Collective
P. O. Box 512
Grand Marais, MN 55604
PH: (218) 387-1237

CROW WING COUNTY

* Mid-Minnesota Women's Center
P. O. Box 602
Brainerd, MN 56401
PH: (218) 828-1216

DAKOTA COUNTY

* Dakota Sexual Assault Services
Community Action Council
14451 County Road 11
Burnsville, MN 55337
PH: (612) 431-2112
HOTLINE: (612) 894-2424

DOUGLAS, GRANT, OTTERTAIL, POPE, STEVENS & TRAVERSE COUNTIES

* Listening Ear Crisis Center
111 - 17th Avenue East
Alexandria, MN 56308
HOTLINE & Office: (612) 763-6638

FREEBORN COUNTY

* Victims Crisis Center
P. O. Box 649, City Center
Albert Lea, MN 56007
PH: (507) 373-2223

SEXUAL ASSAULT SERVICES

HENNEPIN COUNTY

* Sexual Violence Center
122 W. 31st St.
Minneapolis, MN 55408
PH: (612) 824-2864
HOTLINE: (612) 824-5555
(Designated Official Hotline for
Hennepin County)

Sexual Assault Services
Office of the County Attorney
C-2100 Government Center
Minneapolis, MN 55487
PH: (612) 348-4053

Sexual Assault Resource Service
527 Park Avenue, 3rd Floor
Minneapolis, MN 55415
PH: (612) 347-5832

Rape and Sexual Assault Center
2431 Hennepin Ave. 2nd Floor
Minneapolis, MN 55405
PH: (612) 825-2409

Sexual Violence Program
University of Minnesota
101 Eddy Hall
Minneapolis, MN 55455
PH: (612) 625-6512
HOTLINE: (612) 626-1300

HOUSTON COUNTY

* Houston County Women's Resources
P. O. Box 422
Caledonia, MN 55921
PH: (507) 724-2676

ITASCA COUNTY

* Northland Mental Health Center
215 SE 2nd Ave.
Grand Rapids, MN 55744
PH: (218) 326-1274

KANDIYOHI, BIG STONE, CHIP- PEWA, LAC QUI PARLE, McLEOD, MEEKER, RENVILLE & SWIFT COUNTIES

* Sexual Assault Program
West Central Community Services Center
1125 SE 6th St.
Willmar, MN 56201
PH: 612-235-4613

KOOCHICHING COUNTY

* Koochiching Sexual Assault Services
c/o Sexual Assault Program of Northern
St. Louis County
335 1/2 Chesnut St.
Virginia, MN 55792
PH: (218) 749-4725

LYON & REDWOOD COUNTIES

* Southwest Minnesota Sexual Assault
Program
P. O. Box 51
Marshall, MN 56258
PH: (507) 532-5764

MORRISON COUNTY

* Morrison County Sexual Assault
Northern Pines Mental Health Center
Route 5, Box 257
Little Falls, MN 56345
PH: (612) 632-6647

MOWER COUNTY

Victim's Crisis Center
300 8th Ave. NW
Austin, MN 55912-2983
PH: (507) 437-6680

NOBLES, PIPESTONE, ROCK, JACKSON AND COTTONWOOD COUNTIES

* New Women Against Violence (W.A.V.)
P. O. Box 834
Worthington, MN 56187
PH: (507) 376-4311

SEXUAL ASSAULT SERVICES

OLMSTED, DODGE & FILLMORE COUNTIES

* The Rapeline Program
515 2nd St. SW
Rochester, MN 55902
PH: (507) 285-8242
HOTLINE: (507) 289-0636

POLK, PENNINGTON, AND RED LAKE COUNTIES

* Project Safe, Inc.
102 North Broadway
Crookston, MN 56716
PH: (218) 281-2864

RAMSEY COUNTY

* Sexual Offense Services of Ramsey County
1619 Dayton Avenue
St. Paul, MN 55104
PH: (612) 298-5898

**Ramsey County Victim-Witness
Assistance Unit**
Ramsey County Attorney's Office
350 St. Peter Street, Suite 400
St. Paul, MN 55102
PH: (612) 292-7566

RICE COUNTY

* Rice County Services for Victims
of Sexual Assault
Goodhue, Rice, Wabasha Citizens
Action Council
Town Square, Suite 1 - Highway 60
Faribault, MN 55021
PH: (507) 332-2227
HOTLINE: (507) 334-2555

ST. LOUIS COUNTY NORTHERN

* Sexual Assault Program of Northern
St. Louis County
335 - 1/2 Chesnut Street
Virginia, MN 55792
PH: (218) 749-4725
HOTLINE for Range: 1-800-232-1300

ST. LOUIS (SOUTHERN), CARLTON AND LAKE COUNTIES

* Program for Aid to Victims of Sexual Assault
202 Ordean Building
424 W. Superior Street
Duluth, MN 55802
PH (218) 726-4751
HOTLINE 218-720-8344

SCOTT COUNTY

* Sexual Assault Center
St. Francis Regional Medical Center
325 West 5th Ave.
Shakopee, MN 55379
PH: (612) 445-2322, Ext. 3306
HOTLINE: (612) 445-CARE

STEARNS, BENTON, WRIGHT SHERBURNE AND MILLE LACS COUNTIES

* Central Minnesota Sexual Assault Center
601 1/2 Mall Germain
St. Cloud, MN 56301
PH: (612) 251-HELP

WASHINGTON COUNTY

* Sexual Assault Services
7066 Stillwater Boulevard
Oakdale, MN 55119
PH: (612) 777-5222
HOTLINE: (612) 777-1117

WINONA COUNTY

* Sexual Assault Crisis Aid
14 Exchange Building
Winona, MN 55987
PH: (507) 452-4440

SEXUAL ASSAULT SERVICES / OTHER SERVICES FOR CRIME VICTIMS

SPECIAL PROGRAMS

* Bois Forte Advocate Program
P. O. Box 25
Nett Lake, MN 55772
PH: (218) 757-3295

* Minnesota Migrant Council
220 S. Robert St., Suite 104
St. Paul, MN 55107
PH: (612) 222-2121

* Community-University Health Care Center
2016 16th Ave. S.
Minneapolis, MN 55404
PH: (612) 627-4774

* Model Cities Health Clinic
430 N. Dale St.
St. Paul, MN 55103
PH: (612) 222-6029

* Division of Indian Work
Minneapolis Council of Churches
3045 Park Avenue
Minneapolis, MN 55407
PH: (612) 827-1795

* Phyllis Wheatley Community Center
919 Fremont Ave. N.
Minneapolis, MN 55411
PH: (612) 374-4342

* These centers receive funding from the Minnesota Program for
Victims of Sexual Assault, Department of Corrections.

For more information concerning programs
for victims of sexual assault, please contact:

Minnesota Program for Victims of Sexual Assault
300 Bigelow Bldg., 450 N. Syndicate
St. Paul, MN 55104
(612) 642-0256

For information regarding victim/witness programs
and services for crime victims, generally, please contact:

Minnesota Crime Victim and Witness Advisory Council
N-465 Griggs Midway Building
1821 University Avenue
St. Paul, MN 55104
(612) 642-0395

For information regarding services and programs
for battered women, please contact:

Minnesota Coalition for Battered Women
570 Asbury Street
St. Paul, MN 55104
(612) 646-6177

For more information on programs and ongoing
efforts to prevent sexual violence, please contact:

Office of Attorney General Hubert H. Humphrey, III
ATTN: Sexual Violence Task Force
525 Park Street, Suite 200
St. Paul, MN 55103
(612) 297-1050