



The Delays in Screening Sexually Violent Predators Increase Costs; Treatment Facility Security Enhanced

at a glance

While the Sexually Violent Predator Program has addressed some problems identified by prior reports, other deficiencies still exist.

- Offenders often spend extended periods in detention while awaiting the outcome of the civil commitment process, increasing program costs and diminishing effectiveness.
- The registry of mental health experts maintained by the Justice Administrative Commission lists few psychologists specializing in sex offender evaluations.
- The new program vendor has not fully implemented its enhanced specialized treatment component for developmentally disabled offenders.
- Adding a community re-entry phase would enhance the program's long-term effectiveness.
- While facility security has improved, the program should refine the categories of reportable incidents to better track safety and security at the treatment facility.

Scope

As directed by the Legislature, OPPAGA reviewed the Department of Children and Families' Sexually Violent Predator Program. We examined the timeliness of the assessment process, some aspects of treatment services, and the security of the Florida Civil Commitment Center for Sexually Violent Predators.

Background

As defined by statute, sexually violent predators are persons who have been convicted of a sexually violent offense and have a mental abnormality or personality disorder that makes them likely to engage in future acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.¹

To address the treatment needs of these offenders, the 1998 Legislature enacted the Involuntary Civil Commitment of Sexually Violent Predators Act, also known as the Jimmy Ryce Act.² The act creates a civil commitment process for sexually violent predators that is similar to the Baker Act procedures to involuntarily commit and treat mentally ill persons.

The commitment process involves three stages.

- Referral. The Department of Corrections and other referral agencies identify offenders that have been convicted of specified sexually violent offenses and notify the Department of Children and Families' Sexually Violent Predator Program and the appropriate state attorney.³

¹ Section 394.912, F.S.

² Sections 394.910 through 394.932, F.S.

³ Referral agencies include the Department of Corrections, the Department of Juvenile Justice, and the Department of Children and Families. Most (93%) of civil commitment referrals come from the Department of Corrections; therefore, we focused our analysis only on this referral source.

- Screening and assessment. A Department of Children and Families' clinical specialist reviews the information provided by the referring agency and gathers additional information as needed to complete the case file. The file is screened independently by two in-house licensed psychologists to determine if the offender meets the statutory sexually violent predator criteria. Offenders who are deemed to meet the criteria are examined by at least one independent, contracted evaluator who provides a recommendation to the department.
- Team decision. A multidisciplinary team reviews the evaluative reports to determine whether the offender meets the sexually violent predator criteria, and notifies the state attorney and the referring agency of its recommendation.⁴
- Judicial process. The state attorney determines whether to initiate legal action for commitment. If so, the state attorney files a probable cause petition seeking a determination that the offender meets statutory criteria to be a sexually violent predator. Within 30 days of the determination of probable cause, a trial must be held to determine whether the offender is a sexually violent predator. If the judge or jury finds the offender to be a sexually violent predator, the judge commits him to the custody of the Department of Children and Families upon completion of his criminal sentence.

If the commitment process is not completed prior to the end of an offender's prison sentence, he is detained by court order and transferred to the Florida Civil Commitment Center in Arcadia to await the outcome of commitment proceedings.

Since the program's inception, over 27,000 offenders have been referred to the Department of Children and Families for screening and assessment. The multidisciplinary team has recommended 1,103 of these offenders for commitment. As of August 2007, the commitment center housed 616 individuals: 320 civilly committed predators and 296 detainees awaiting completion of commitment procedures.^{5,6}

⁴ The multidisciplinary team shall include, but is not limited to, two licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist (s. 394.913(3)(b), *F.S.*).

⁵ This includes 13 non-committed offenders who remain in custody under stipulated agreement.

⁶ Data presented in this report are based on the period of our analysis of the DCF Sexually Violent Predator Program data for the sake of consistency. The most current summary data is available at <http://edr.state.fl.us/>.

Most of the remaining 487 offenders were released by petition dismissal, court order, or were found at trial not to meet criteria for commitment. (Appendix A describes the disposition of all referrals.)

The Sexually Violent Predator treatment program consists of four levels of cognitive behavior modification.⁷ This program takes a minimum of six years to complete and the staff annually assesses the treatment progress of committed residents. Persons committed to the state under the Jimmy Ryce Act are detained until the court determines that they are no longer a threat to public safety.

For Fiscal Year 2007-08, the Legislature appropriated 13 positions and \$26 million to the Department of Children and Families (DCF) to operate the Sexually Violent Predator Program. Department staff oversees the program's screening, evaluation, and recommendation process and monitors the contract for the operation of the Florida Civil Commitment Center. The department currently contracts with GEO Group, Inc., to operate the facility and provide all treatment and security services.⁸ Under the current contract, the state will pay GEO Group \$61,925,164 over the two- and one-half year period that runs from December 1, 2006, through June 30, 2009.

Findings

Detainees are costly to the state and negatively affect the program environment

Almost half of the persons housed at the Florida Civil Commitment Center for Sexually Violent Predators are detainees awaiting the resolution of their civil trial. Housing detainees is problematic for three reasons.

- It is expensive to house detainees, many of whom are subsequently released.
- Detainees will likely contribute to overcrowding at the new treatment center that is scheduled for completion in 2009.
- Detainees are housed with committed offenders at the treatment center, which can contribute to safety concerns.

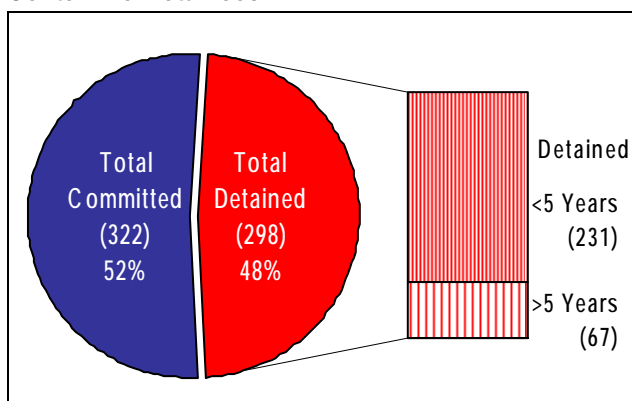
⁷ Treatment as used in this report refers to sex offender specific treatment.

⁸ Liberty Behavioral Healthcare operated the program from its inception in 1999 through June 30, 2006.

Detainees account for nearly half of the program's costs. Detaining offenders pending the outcome of their court hearings has the benefit of preventing the release of persons who have committed sexual offenses until the court can determine whether they pose a public threat and qualify for commitment under the Ryce Act. However, detainees are expensive to house and many are subsequently released after the court determines that they do not meet commitment criteria.

According to department data, as of August 31, 2007, the treatment center housed 616 offenders, of which 296, or 48%, were detainees, as shown in Exhibit 1. Sixty-seven detainees (23%) have been detained five years or longer.

Exhibit 1
Nearly Half the Residents at the Civil Commitment Center Are Detainees



Source: OPPAGA analysis of Department of Children and Families data.

The state currently spends over \$40,000 per year to house an offender at the commitment center. Therefore, in Fiscal Year 2006-07 the program spent over \$12 million to house detainees. According to department data, between the program's inception and August 31, 2007, slightly over a quarter (303 or 28.5%) of the offenders who have been detained were subsequently released having never been committed. These persons' average length of stay was 760 days (just over two years) at an individual average cost of over \$80,000.

Detainees contribute to facility overcrowding. Housing large numbers of detainees contributes to facility overcrowding. The state is constructing a new sexually violent predator treatment facility that will have a capacity of 720 offenders and is anticipated to be completed in the spring of 2009.

While the number of detainees is expected to decline, the projected population is anticipated to result in the facility's overcrowding one year after completion. The Florida's Legislature's Office of Economic and Demographic Research forecasts that the treatment center will have a population of 726 offenders in June 2010, exceeding its planned capacity; 162 of the offenders are projected to be detainees. Once the Sexually Violent Predator Program vacates the current facility, it will revert back to the Department of Corrections (DOC), which plans to use the facility to house correctional inmates.

Detainees negatively affect both safety and the therapeutic environment at treatment center. Florida statutes and rules require the informed consent of individuals treated in civil mental health treatment facilities; therefore, both detained and committed individuals at the center must consent to treatment to participate. Since 2005, newly detained individuals may only participate in the first phase of treatment while awaiting the outcome of their civil commitment trial. According to DCF staff, providing complete sex offender specific treatment to detainees is inconsistent with the program model, which requires a full commitment to treatment and a willingness to admit one's sex offense history. Detainees who are contesting their potential civil commitment generally are reluctant to admit sex offenses as this information can be used against them. As of August 31, 2007, only 17% of the 283 detainees were participating in treatment, compared to 46% of committed residents.⁹

Residents not participating in treatment are more likely to be idle. Historically, detainees and residents not participating in treatment have contributed to the majority of the disruptions that occur at the facility, including resident-on-resident assaults, resident-on-staff assaults, protests, an escape, and threats against other residents and staff. The perception of both staff and residents is that the residents participating in treatment create few, if any, management or disruption problems and do not want to jeopardize their progress in the program.

⁹ Detainees admitted since 2005 are prohibited by program policy from participating in treatment.

To provide meaningful activities to detainees and residents not participating in treatment, the Florida Civil Commitment Center offers an array of non-sex offender specific therapies and activities, such as substance abuse education and treatment, stress and anger management, interpersonal communication, health and wellness, recreation, and basic education/GED preparation. Committed residents participating in sex offender specific treatment may also participate in these activities to augment their treatment as needed.

Delays occur in every stage of the civil commitment process

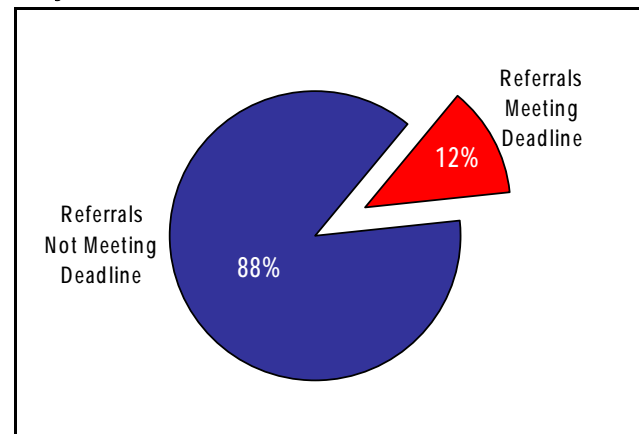
To ensure that cases move through the legal system in a timely and cost-effective manner, the Legislature established statutory timeframes for the civil commitment process. DOC is required to refer offenders to the program at least 545 days prior to release and the program is to screen, evaluate, and make a recommendation to the state attorney within 180 days of receiving a referral. These time periods are intended to provide the state with approximately one year to file petitions, hold probable cause hearings, and conduct a civil commitment trial prior to the offender's release from prison.¹⁰

However, these timeframes are not being met. The state has had the intended one-year period to process these cases in only 4% of referrals during the past five years. Delays in all three stages of the civil commitment process results in the housing of detainees awaiting their commitment trial.

Most DOC referrals have been late. The referral agencies are not sending cases to the Department of Children and Families (DCF) early enough to enable the screening process to be completed before inmates' scheduled release dates. For example, while DOC is statutorily required to make referrals at least 545 days prior to an offender's anticipated release date, only 12% of its referrals have met this statutory timeframe, as shown in Exhibit 2.¹¹ The remaining 88% of referrals have occurred an average of 313 days before an inmate's scheduled

release date, or over seven months later than required.¹²

Exhibit 2 The Department of Corrections Met Statutory Deadline Only 12% of the Time



Source: OPPAGA analysis of Department of Children and Families' data.

Most (93%) referrals come from DOC, and department staff attribute these delays to two problems. First, a computer programming error was generating late referrals. When our analysis disclosed the high number of late referrals, DOC staff found that its computer system contained a programming error that incorrectly calculated forecasted inmate release dates. DOC reports that it has implemented programming changes that enable program staff to begin identifying and referring cases to DCF for evaluation in a timely manner.

Second, many offenders referred for assessment have prison sentences that are shorter than 545 days, which precludes DOC from giving the full required notice for them.¹³ While most offenders referred to the program for evaluation are serving long sentences for serious sex crimes, some are incarcerated for shorter time periods for less serious offenses but nonetheless have sex offense histories that could make them eligible for civil commitment. For example, an offender sentenced to a year and a day prison sentence for drug possession may have a qualifying sex offense from a previous conviction that would make him

¹⁰ The Department of Juvenile Justice and the DCF Not Guilty by Reason of Insanity program, which may also make referrals, are required to refer offenders at least 180 days prior to release.

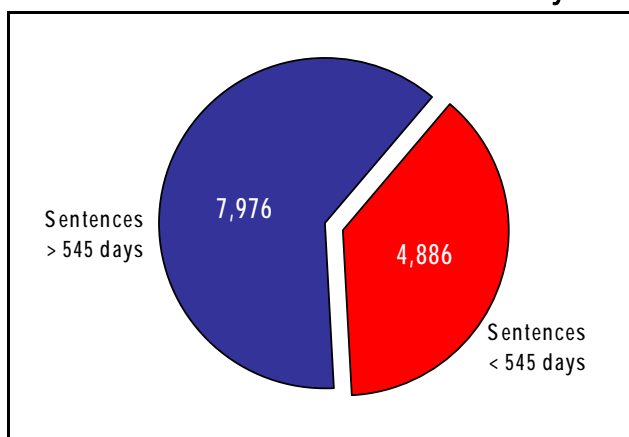
¹¹ This percentage excludes referred offenders with sentences less than 545 days prior to their anticipated release date.

¹² This excludes "immediate releases" which are offenders who have impending releases from prison due to jail time credit or court decisions.

¹³ Per s. 394.913, F.S., for persons confined for a period of less than 545 days, written notice must be given as soon as practicable.

potentially eligible for the program. In such a case, even if DOC sent the referral the day the offender arrived in prison, DCF would only receive a 366-day notice instead of the required 545-day notice. As shown in Exhibit 3, data provided by DCF and DOC indicate that over one-third of the referrals made to the program during the past five years were offenders with sentences less than 545 days.

Exhibit 3
38% of Department of Corrections Referrals Are for Offenders With Sentences Less Than 545 Days



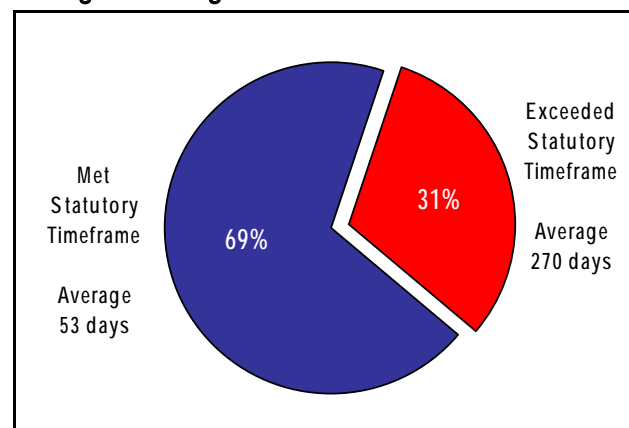
Source: OPPAGA analysis of Department of Children and Families' data.

DOC and DCF have taken steps to address offenders with impending release dates. DOC recently began flagging cases with sentences less than 545 days at its reception centers so that it can notify DCF and gather the necessary referral information as soon as possible. DCF's process to address offenders with impending release dates is to triage cases it receives in order of anticipated release date, which enables it to give priority to screening and evaluating referrals with anticipated release dates of less than 545 days.

Document collection delays screening and assessment. Another factor that contributes to processing delays is that DCF does not always complete its evaluations of referred offenders within the 180-day statutory time period. Our analysis of cases processed during the past five years found that DCF averages 106 days from receiving a referral to making a recommendation. As shown in Exhibit 4, for cases that met the statutory timeframe, it took an average of 53 days to complete this process.

However, DCF exceeded the 180-day timeframe in approximately one-third of the cases; these averaged 270 days per case, or approximately three months late.

Exhibit 4
31% of Cases Exceeded Statutory Timeframes, Taking an Average of Nine Months



Source: OPPAGA analysis of Department of Children and Families' data.

DCF data shows that more than half of its evaluation time—an average of 91 days—is used gathering documents needed for the screening and evaluation process. DCF staff reported two reasons for this time period. First, delays occur in obtaining arrest and conviction information from local jurisdictions, particularly those in other states. In some cases, other states will not release data to DCF, which is not a law enforcement or correctional agency, and the program must request assistance from either DOC or the Florida Department of Law Enforcement to obtain the necessary information from other states. Second, until recently program staff was obtaining records from individual Florida clerks of court offices. On OPPAGA's recommendation, program staff has received training on the clerks' Comprehensive Case Information System to reduce delays in obtaining complete civil and criminal case records.

The limited number of psychologists specializing in sex offender evaluations is one reason for delays in the judicial processes. Several issues also delay court consideration of sexual predator cases, including delays earlier in the process, continuances, and scarcity of expert witnesses.

As discussed above, the state frequently has less than the intended 365 days to prepare and conduct commitment trials. In those cases in which the program determined that an offender met statutory criteria, the state attorneys received the recommendations an average of only 92 days prior to the offender's release date.

Florida statutes require state attorneys to go to trial within 30 days of filing a petition for involuntary commitment. However, state attorneys indicated that it is difficult to prepare a meaningful case within 30 days and so they often request continuances. Public defenders also report that they usually ask for a continuance to have time to depose expert witnesses and prepare an adequate defense.

Also, there are a limited number of expert witnesses who conduct psychological evaluations and provide testimony at the commitment trial, which delays adjudications. Both state attorneys and public defenders cited the limited number of expert psychological evaluators as a primary reason for delays in Jimmy Ryce proceedings. To help address this problem, the 2006 Legislature passed Ch. 2006-33, *Laws of Florida*, which directed the Justice Administrative Commission to advertise and maintain a registry of individuals able to provide expert testimony in Jimmy Ryce civil proceedings.

To date, only 21 persons have asked to be included in the registry and only 3 are licensed psychologists, who are necessary for both the defense and prosecution and whose limited availability is most often cited as the cause for delays in commitment proceedings. Florida law requires the commission to advertise on a periodic basis to promote the registry to potential experts in the field. However, as of January 2008, the commission had advertised the registry only once—in the September 2006 issue of the *Florida Bar News*. To reach more psychologists, the commission should periodically notify professional organizations such as the Florida Association for the Treatment of Sexual Abusers and advertise in professional psychological journals.

Prior to July 1, 2006, there was no limit on the number of continuances permitted in Jimmy Ryce civil commitment cases. However, the 2006 Legislature amended the law to provide that after this date the number of continuances was limited to one unless the court finds that a manifest injustice

would otherwise occur.¹⁴ Since this change was made, the average number of statewide commitments has increased from three to eight per month. As a result, the number of persons in detainee status is beginning to decline. April 2007 marked the first time since the program's inception that the number of committed residents at the treatment center outnumbered the number of persons detained pending the outcome of civil proceedings.

Specialized treatment for developmentally disabled residents continues to be enhanced

The Department of Children and Families' contract with the GEO Group requires the vendor to provide sex offender assessment and treatment services that comply with guidelines issued by the Association for the Treatment of Sexual Abusers. It is important that sex offender treatment meet national standards because the adequacy of the program, has been challenged in a federal class action lawsuit, *Canupp et al. v. Butterworth*, filed in 2004 against DCF on behalf of FCCC residents. The lawsuit challenges the adequacy of the sex offender treatment program for all consenting residents as well as the delivery of mental health treatment services to those residents who are seriously mentally ill.

GEO Group has implemented a four-phased sex offender treatment model consistent with national standards. The treatment model is a cognitive behavioral therapy program, which is recommended by experts as an evidence-based practice that reduces the risk of future offending.¹⁵ As required by its contract, the GEO Group has also established a separate inpatient psychiatric treatment unit to stabilize residents experiencing a mental health crisis so that they can participate in sex offender treatment. As of August 2007, 60 residents were receiving inpatient psychiatric treatment.

¹⁴ Chapter 2006-33, *Laws of Florida*.

¹⁵ The treatment model is a comprehensive, structured treatment approach based on sexual learning theory using cognitive restructuring methods and behavioral techniques. Behavioral methods are primarily directed at reducing arousal and increasing pro-social skills. The cognitive behavioral approach employs peer groups and educational classes, and uses a variety of counseling theories. The model has been recommended by entities including the Association for the Treatment of Sexual Abusers and the Center for Sex Offender Management.

The GEO Group intends to enhance its program for developmentally disabled residents. As of August 2007, the facility held 32 residents with some type of developmental disability. These residents include persons who are intellectually disabled, learning disabled, suffering from nonspecific cognitive limitation, or brain damaged.

GEO Group is currently providing specialized sex offender treatment services to developmentally disabled residents, but it plans to enhance this program in the future. Literature on the treatment of sex offenders notes that developmentally disabled offenders must be provided suitable treatment that takes into account their intelligence, illiteracy, impulsiveness, or inadequate social skills.

GEO Group has developed a modified treatment program for developmentally disabled residents that uses visual materials (reading is not required) and therapeutic activities. In addition, the program is purchasing assessment tools designed to better diagnose residents thought to be developmentally disabled. However, implementation of the enhanced treatment program has been delayed by several factors, including turnover in the program's clinical director, delays in hiring clinical staff, lack of clinical staff with experience working with developmentally disabled sex offenders, and the need for additional specialized training for staff who work with developmentally disabled residents. The new clinical director has experience working with intellectually disabled sex offenders and GEO Group anticipates that the enhanced treatment program for the developmentally disabled will be fully operational in early 2008.

A re-entry phase would enhance the program's long-term effectiveness

Florida's sex offender treatment program could be strengthened by implementing a community-based treatment component for those who are leaving the facility to re-enter society. Community-based treatment and supervision is considered to be an effective way to reduce the risk of sex offenders re-offending once they are released.¹⁶ Most (16 of the 20) states that operate involuntary civil commitment

programs have established processes to provide community-based treatment or supervision.¹⁷ For example, in Kansas, sexual offenders may be released with a plan of treatment which includes taking prescribed medications and attending individual and group counseling. In California, sexual offenders determined not to be dangerous to others are placed with an appropriate forensic release program operated by the state for one year, which includes outpatient supervision and treatment. At the end of one year, the court holds a hearing to determine if the offender should be unconditionally released from commitment.

Florida's program assumes that offenders who meet treatment goals will eventually be released. Since the program's inception there has been one committed offender released from the program who was determined by treatment staff to have maximized the treatment offered. There are currently 11 residents in the final phase of their treatment, which includes discharge planning and the involvement of stakeholders such as the residents' families.¹⁸ However, DCF has not yet established a component for post-release supervision of such offenders because it lacks statutory authority to implement a community-based treatment phase.¹⁹

To improve the treatment program and enhance public safety, DCF should provide the Legislature with suggested statutory language to create a community-based treatment component and an estimate of associated costs. These provisions should specify which entity would provide monitoring, treatment, and supervision of individuals released from civil commitment and criteria for the length of such treatment and supervision.

¹⁷ Florida, New Hampshire, Pennsylvania, and South Carolina do not provide for less restrictive placement of sexually violent predators.

¹⁸ Offenders may also be released from civil commitment for a number of reasons not related to treatment completion, including no longer meeting criteria for commitment, having the commitment overturned, or release by state attorney stipulation or abeyance. Since the program's inception, a total of 34 committed offenders have been released by the courts. However, residents released from the program may be readmitted due to violations of agreement conditions.

¹⁹ Per s. 394.911, *F.S.*, persons subject to the civil commitment procedure for sexually violent predators are not eligible for less restrictive alternatives.

¹⁶ For example, the Association for the Treatment of Sexual Abusers notes that community visitation, work release, approved housing and employment, family support systems, supervision, monitoring, and ongoing treatment are important to the success of re-entry into the community.

While security at the treatment center has improved, DCF should improve incident reporting processes

Facility security has been problematic throughout the program's history. While security has improved, incident reporting processes need to be strengthened to facilitate program monitoring.

Under the facility's previous contractor, Liberty Behavioral Healthcare, DCF and the media identified numerous security issues, including resident violence, poor control of master keys that open all doors in the facility, and introduction of contraband. In addition, poor facility design has not allowed for physical separation of detained and committed residents and has contributed to safety problems. A resident uprising in February 2005 resulted in a facility lockdown and more than 300 law enforcement officers were sent to the facility to restore order.

To address these security concerns, the department rebid the contract in 2005 and required the new contractor to provide facility security and have experience in managing American Correctional Association-accredited private prisons. GEO Group, Inc., which currently operates three private correctional facilities in Florida, was awarded the contract in June 2006 and assumed full control of internal security in January 2007.

GEO Group has implemented several measures to improve facility security. The vendor installed a new key system which tracks key usage by date, time, and PIN code. Under this system no single key is able to open all the doors and gates required to exit the facility. GEO Group also constructed an armory in the main entrance guard facility to house firearms, bullet-proof vests, and duty gear for perimeter and transport security staff. Additionally, it will create a special operation response team of trained security officers who will be trained to handle resident disturbances such as sit-ins and mass charges. GEO Group anticipates having the team trained and in place during the first quarter of 2008.

GEO Group has also implemented measures to reduce contraband. Staff inspects and opens all resident mail and packages in front of residents, although staff does not read the content of correspondence. To aid in detecting contraband such as cell phones, which have been a significant problem, the facility has ordered an x-ray machine,

which will be used to inspect packages coming into the facility.²⁰ Additionally, GEO Group is implementing other contraband control measures such as drug detection canines and has purchased an ion track machine to detect explosives and narcotics on skin and in baggage and containers. The machine has been received at the facility and staff will begin using it upon final policy approval from GEO Group corporate offices, which is anticipated by March 2008.

GEO Group is building a new treatment facility under a design and build contract at a cost of \$62 million. The new facility is due to be completed in spring 2009, and will address security concerns of the current facility design. The facility will also offer housing options for different levels of confinement, which will allow for physical separation of detainees and residents, as well as separating persons who are receiving treatment from those who are not participating. Additionally, administration offices will be located outside of the perimeter fence to help reduce the introduction of contraband into the facility and reduce risks to administrative staff.

While DCF has not maintained use of force records in the past, it plans to begin monitoring the use of force at the civil commitment center. The department's current performance measure for tracking harmful events at the center does not provide an accurate picture of the facility's security operations. GEO Group is required to report harmful events, also known as significant reportable events, to the department as part of its contractually required monthly report. Significant reportable events are defined as those that result in serious injury to staff or residents, incidents that result in a client elopement or escape, and incidents that result in serious damage to the facility. The contract requires that there be no more than three significant reportable events per 100 residents annually. Both GEO Group and Liberty Behavioral Healthcare, the previous provider, have met this performance standard.

However, the significant reportable event measure is overly broad, making it difficult to identify facility security issues. For example, the measure

²⁰ GEO staff indicates that residents have used cell phones to call victims or victims' families, as well as to contact employees to induce them to smuggle contraband into the facility or participate in inappropriate relationships.

includes suicide attempts that result in physical injury requiring medical attention at an off-campus acute care hospital, non-security related events, such as unexpected non-violent resident deaths, resident escapes and any incidents that result in serious damage to the facility. To better reflect security conditions at the facility, the department should revise its performance measures to include more distinct security-related categories. For example, the department should separately report incidents of the use of force, assaults on staff, resident injuries, escapes, crimes, and the introduction or detection of contraband. This would enhance the Legislature's and the department's ability to use performance data to assess the program's security operations.²¹

Recommendations

To improve the program's ability to meet the statutory timeliness standards for screening offenders and completing the civil commitment process prior to inmates' scheduled release dates, we recommend that the Department of Corrections monitor its computer system to ensure that offenders are identified for referral at the proper time. We also recommend that the Department of Children and Families refine its process for working with DOC to request law enforcement records from other states in a timely manner.

To broaden access to psychologists specializing in sex offender evaluations and potentially reduce delays in the judicial processes, we recommend that the Justice Administrative Commission, on a periodic basis, advertise the SVP expert registry in professional journals for psychological as well as legal professionals as required by statute.²²

To ensure that all persons committed to the Florida Civil Commitment Center for Sexually Violent Predators can participate in treatment, we recommend that DCF ensure that GEO's plans to provide specialized treatment for developmentally disabled residents occurs by January 31, 2008.

²¹ An additional indicator of facility security is the number of calls to the DeSoto County Sheriff's Office for law enforcement assistance. While the number of calls for assistance from the facility has increased from 47 in Fiscal Year 2003-04 to 58 in Fiscal Year 2006-07, the ratio of calls relative to increase in population at the facility has remained relatively constant.

²² Chapter 394.932, F.S.

To improve the treatment program and enhance public safety, we recommend that DCF provide suggested statutory language to the Legislature to create a community-based treatment re-entry component for individuals committed under the Jimmy Ryce Act and an estimate of associated costs. These provisions should specify which entity would provide monitoring, treatment, and supervision of individuals released from civil commitment and criteria for the length of such treatment and supervision.

To improve program monitoring, we recommend that DCF revise its performance measures to report more distinct categories such as use of force, assaults on staff, resident injuries, escapes, crimes, and the introduction or detection of contraband.

Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Secretary of the Department of Children and Families and the Secretary of the Department of Corrections for each to review and respond. Both written responses have been reproduced in Appendix B.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

Project supervised by Marti Harkness (850/487-9233)

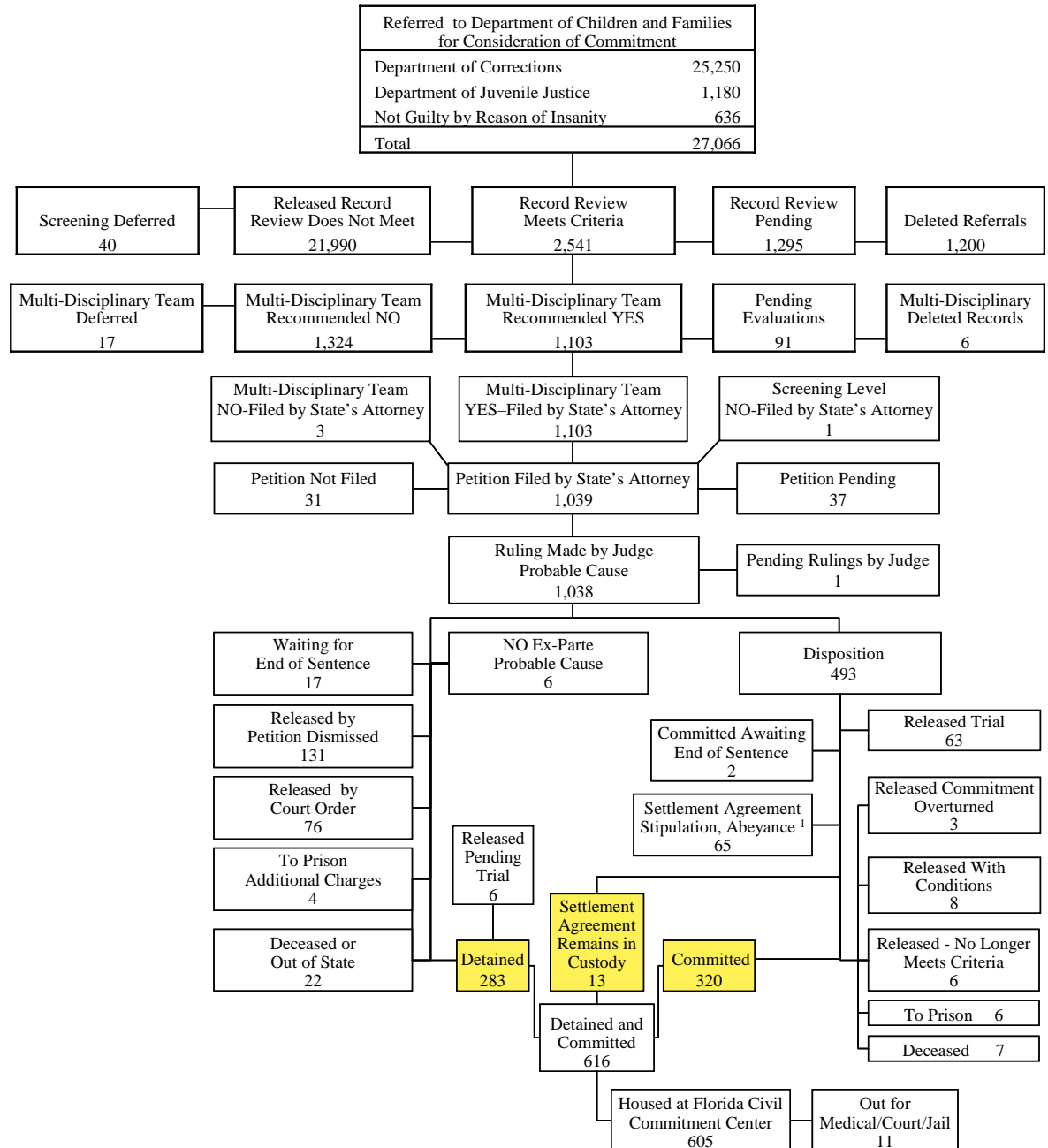
Project conducted by Drucilla Carpenter, Jason Gaitanis, Michelle Harrison (850/487-9220), and Matthew Moncrief

Gary R. VanLandingham, Ph.D., OPPAGA Director

Appendix A

Status of Individuals Referred for Commitment to the Sexually Violent Predator Program Through August 31, 2007

The flowchart below depicts the flow of individuals through the referral, screening, evaluation, and commitment processes for the Sexually Violent Predator Program since the inception of the program.



¹Individuals detained as sexually violent predators and released pursuant to an agreement between the parties to the civil commitment proceeding.

Source: This flowchart was prepared by the Florida Legislature's Office of Economic and Demographic Research using a flowchart prepared monthly by the Department of Children and Families.

Appendix B



**State of Florida
Department of Children and Families**

Charlie Crist
Governor

Robert A. Butterworth
Secretary

February 18, 2008

Mr. Gary R. VanLandingham, Director
The Florida Legislature
Office of Program Policy Analysis and
Government Accountability
111 West Madison Street
Room 312 Claude Pepper Building
Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

Thank you for your February 5 letter providing the preliminary findings and recommendations of your program review entitled: *The Delays in Screening Sexually Violent Predators Increase Costs; Treatment Facility Security Enhanced*.

Enclosed you will find the Department's response to the findings and recommendations. The Department wishes to express appreciation to OPPAGA staff who worked so diligently to compile this report. If you or your staff have any questions, please contact:

Katharine V. Lyon, Ph.D., Director
Mental Health Program Office
Office: (850) 413-9610
Fax: (850) 487-2239
Email: kate_lyon@dcf.state.fl.us

I hope you will find this response helpful in finalizing your report. We appreciate the opportunity to respond to your findings and look forward to continued collaboration with your office.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rob Butterworth', is written over the printed name and title.

Robert A. Butterworth
Secretary

Enclosure

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

Mission: Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and
Advance Personal and Family Recovery and Resiliency

FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES
RESPONSE TO OFFICE OF PROGRAM POLICY ANALYSIS AND
GOVERNMENT ACCOUNTABILITY REPORT: The Delays in Screening
Sexually Violent Predators Increase Costs; Treatment Facility Security Enhanced
February 2008

Information Gathering Process:

Recommendation:

The Department should refine its process for working with the Department of Corrections to request law enforcement records from other states in a timely manner.

Department's Response:

The Department concurs with this recommendation. Efforts are underway to review and determine how the information gathering process can be enhanced, to include ways in which the Department of Corrections may further assist in providing documentation regarding relevant criminal history, mental health history, and institutional adjustment.

An initial meeting was held on February 7 with staff of the Department of Corrections Release Management unit to discuss refining and further enhancing their involvement in the information gathering process. Further brainstorming efforts will occur in order to ensure that the information gathering process may be optimized without creating additional, significant workload demands of either agency. Meetings will be scheduled with Department of Corrections on a quarterly basis in order to address these issues.

Specialized Sex Offender Treatment:

Recommendation:

The Department ensure that GEO's plans to provide specialized treatment for developmentally disabled residents occurs by January 31, 2008.

Department's Response:

The Department concurs that specialized treatment for developmentally disabled residents be implemented promptly and effectively. The Department and GEO are working to ensure that treatment and programming at the Florida Civil Commitment Center (FCCC) are maintained at a level that will result in a favorable outcome in the Canupp v. Butterworth lawsuit.

This lawsuit is a federal class action lawsuit filed by Florida Institutional Legal Services, Inc. and Southern Legal Counsel, Inc. on behalf of certain residents at the Florida Civil Commitment Center (FCCC). The lawsuit alleges that the sex

offender treatment program is inadequate in terms of its design and the intensity of services, and that the facility does not provide adequate services to residents with special needs - those with mental illness or developmental disabilities. The primary remedy plaintiffs seek is injunctive relief (i.e., a court order directing that the defendants provide services at a level to be determined by the court).

It is the goal of FCCC to provide state of the art programming to all committed residents consenting to sexual offender treatment. To that end, FCCC/GEO has contracted with international experts in the field of sexual offender treatment to ensure that programming is implemented that is consistent with the empirical literature and best practice models. Currently, the two prevailing models in the literature are the Risk/Needs/Responsivity model (Andrews & Bonta, 2007) and the Good Lives Model (Ward & Stewart, 2003). These complementary approaches decree that treatment programming must consider the whole person in addition to ensuring that participation is maximized on the road to eventual manageability of risk.

The comprehensive treatment program provided at the FCCC is modeled after that implemented by Dr. David Thornton at the Sand Ridge Secure Treatment Facility in Mauston, WI. Dr. Thornton is a former recipient of the Association for the Treatment of Sexual Abusers' (ATSA) Significant Achievement Award, and is an internationally-respected clinician and researcher. Dr. Thornton has conducted extensive training with FCCC staff, including seven days in January-February, 2008.

In order to meet the needs of residents at the FCCC who are identified as possessing "special needs" (e.g., intellectual disability, cognitive deficits, or other organically-based treatment-interfering factors), three Clinical Therapists and one Team Leader have been dedicated to this track. The curriculum in this track represents a modified version of Dr. Thornton's program for conventional track offenders. This modified version maximizes the responsivity capacity of special needs residents by providing treatment curricula in formats that are more appropriate and easily accessible to resident skill levels, by providing extra time to complete lessons (including additional tutorial assistance), by providing enhanced behavioral monitoring and guidance, and in focusing on both internal and external motivation and rewards for compliance with behavior management goals. Training was provided to staff in this track by James Haaven, MA, of Oregon. Mr. Haaven is an internationally-respected pioneer in treatment services to sexual offenders with special needs, and was the 2007 recipient of ATSA's Significant Achievement Award.

Presently, FCCC's treatment program for residents with special needs complies fully with ATSA guidelines and program expectations in the field. In July 2007, FCCC hired Dr. Robin Wilson as its Clinical Director. Dr. Wilson is a current member of the ATSA Board of Directors and is a well-respected member of the international sexual offender treatment and research community. Dr. Wilson has

worked specifically with special needs sexual offenders for more than 10 year as a supervising psychologist and clinical consultant to several hospitals and various community-based agencies in Canada (e.g., Associations for Community Living, behavior management services). In keeping with the FCCC's dedication to continuous quality improvement, Dr. Wilson recommended that clinical staff in the special needs track have additional training to further enhance service delivery to this resident population. To that end, training has been scheduled for March 6-7, 2008.

Phase IV/Community Re-Entry Programming:

Recommendation:

The Department provide suggested statutory language, along with estimated costs, to the Legislature to create a community-based treatment re-entry component for individuals committed under the Sexually Violent Predator Act.

Department's Response:

The Department recognizes that community reintegration of individuals who have been civilly committed as sexually violent predators is an issue faced by a number of states since the inception of civil commitment laws. More Florida Civil Commitment Center residents are completing all phases of sexual offender treatment and therefore may be considered appropriate for release by the committing court, after thorough evaluation of their suitability for such release. Successful integration into the community is likely enhanced by continued treatment in the community and continued court involvement, much like conditional release for individuals under the jurisdiction of Chapter 916, Florida Statutes.

In 2002, the Department proposed substantive legislation to establish a Sexual Violent Predator Program conditional release component. In that same year, the Department requested \$972,330 in new funding for the Sexually Violent Predator Program to implement the proposed conditional release legislation. This funding would have established a post-commitment conditional release program and outpatient sex offender treatment, and enabled the courts to impose mandatory supervision, as well as other conditions for release from the sexually violent predator facility. The funding request and substantive proposals were not supported.

The Department will review possible statutory language related to community-based treatment re-entry and costs associated with such a program, for possible submission during the 2009 legislative session.

Performance Measures/Incident Reporting:**Recommendation:**

The Department revise its performance measures to report more distinct categories such as use of force, assaults on staff, resident injuries, escapes, crimes versus inmates, and the introduction or detection of contraband.

Department's Response:

The Department concurs with this recommendation. Ongoing attention to the clarification and enhanced distinction of incident reporting categories is important to the Department and will contribute to the overall effectiveness of the incident reporting mechanism. Currently, contract amendments are being drafted that will require the Florida Civil Commitment Center to report a more narrowly defined list of infractions.

It is important to note that the Department's policy for reporting incidents in mental health treatment facilities was developed in order to capture significant incidents. These would include escapes, significant injuries, or death. This reporting system was not designed for many of the items listed in OPPAGA's report (e.g., contraband).

The Department's Critical Incidents Reporting System is being replaced by the Incident Reporting and Analysis System (IRAS). GEO will use the Department's Incident Reporting and Analysis System (IRAS) as soon as this system goes into production. This system, however, is not designed to capture the kind of incidents that OPPAGA recommends in its report.

In addition, please consider the following comments regarding the report, which may serve as points of clarification:

- Page 2 of the OPPAGA report indicates that a Department of Children and Families clinical specialist reviews the information provided by the referring agency and gathers additional information as needed to complete the case file. It is true that one clinical specialist is typically responsible for gathering additional criminal and clinical information on each individual referred to the Sexually Violent Predator Program. However, it is important to clarify that in order to accomplish the information gathering tasks associated with the thousands of referrals that are currently received each year, the Sexually Violent Predator Program is presently staffed with four full-time clinical specialists and one part-time clinical specialist.
- Page 2 of the OPPAGA reports mentions that the program takes a minimum of six years to complete. It is important to note that durations for adequate matriculation through the components of sexual offender treatment programming at FCCC are estimated to be:

- Phase I – Preparation for Change: MRT & Other Risk Reduction Strategies (duration: 18 months).
 - Phase II – Awareness: Disclosure and Discovery (duration: 24 months).
 - Phase III – Healthy Alternative Behaviors: Development & Consolidation (duration: 18 months).
 - Phase IV – Maintenance: Comprehensive Discharge Planning (duration: 12 months).
- Page 2 of the OPPAGA report states that \$61,925,164 will be paid to the GEO Group from December 1, 2006 through June 30, 2009. Under the new contract with GEO, the state anticipates paying \$62,280,164 over the two- and one-half year period that runs from December 1, 2006 through June 30, 2009.
 - Pages 2 through 4 of the OPPAGA report present findings indicative of the cost to the state and negative impact of detainees on the program environment. The Department is aware of these issues and recognizes that significant resources must be utilized in the care, custody, and treatment of FCCC detainees.

Although the Department does not have statutory authority over petitioning the circuit courts to detain, commit, or release any individual, the Department is working to draft correspondence that will be sent to circuit courts notifying them of current FCCC detainees and their length in detainee status.

In 2006, House Bill 5021 was implemented, whereby limiting sexually violent predators to one continuance of the civil commitment trial, upon showing of good cause, or unless the court finds that a manifest justice would otherwise occur. This legislation compels the legal system to conduct sexually violent predator civil commitment trials in a more expedited manner by making it more difficult for either defense counsel or the prosecutor to obtain a continuance of the proceedings. This, over time, should decrease the number of residents in pretrial detainee status at any given time.

- Page 3 of the OPPAGA report indicates that as of August 31, 2007, the treatment center housed 616 offenders, to include 296 detainees. Based on our records, as of August 31, 2007, there were 296 persons in detainee status and 320 persons in committed status.

The 296 persons in detainee status includes 283 persons who had been detained and 13 persons who had entered into a settlement agreement or stipulation and nonetheless remained in custody. The 320 persons in

committed status included only those with active commitment documents that had been received at the time the report was generated for OPPAGA.

The data given to OPPAGA is Snapshot so the count includes only those with active documents received and recorded at the time the report was pulled in response to OPPAGA's request for this information.

- Page 3 of the OPPAGA report forecasts that the facility population will be 726 in June 2010 and that the current facility will return to the inventory of the Department of Corrections. Based on our projections, if the 11.7 percent annual census growth rate continues, planned capacity of the facility will be exceeded by January 2009, at which point the census will be 725. The Department is currently exploring options for remedying future capacity expansion needs.
- Page 5 of the OPPAGA report indicates that during the past five years, the Department exceeded the 180-day timeframe in approximately one-third of the cases. The current staffing level of the Sexually Violent Predator Program requires that cases are prioritized according to the referred individual's release date in order to ensure that persons are reviewed, screened, and if necessary, evaluated before they are released from a secure setting. This prioritization regularly results in referrals not being completed within the 180-day statutory time frame, as prioritizing those cases would likely result in persons being released from secure custody without being screened by the Department.

In order to address the one-third compliance rate with the 180-day mandate, as well as manage the increase in workload demand related to information gathering, screening, and records management functions, additional funding and staff will be needed. The Department has previously requested funding via the legislative budget request process to support: one records manager, one records manager assistant, two psychological specialists, and three state licensed psychologists or psychiatrists. The Legislature did not fund that request. Bringing additional professionals online would provide the Sexually Violent Predator Program with staff resources needed to better meet the 180-day statutory timeframe.



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February 27, 2008

Ms. Michelle Harrison
Office of the Program Policy Analysis and
Government Accountability (OPPAGA)
The Florida Legislature
111 W. Madison Street, Suite 312
Tallahassee, Florida 32399-1475

RE: Response to OPPAGA Review of Sexually Violent Predator Program

Dear Ms. Harrison:

Attached please find the Department of Corrections review of the draft report, *Department of Children and Families' Sexually Violent Predator Program*. I hope that this material will be helpful in your study. If you have additional questions or concerns, please contact this office at (850) 488-9265.

Sincerely,

A handwritten signature in black ink that reads "Paul C. Decker".

Paul C. Decker
Inspector General

PCD/rls

attachment

Florida Department of Corrections
Response – February 17, 2008

OPPAGA's 2007 Report: "The Delays in Screening Sexually Violent Predators Increase cost; Treatment Facility Security Enhanced"

Pages 4-5

The Department of Corrections had the opportunity to review the initial results of this OPAGGA analysis report in October 2007 and provide input, response, and develop a plan of action to correct problems identified in our process of identifying and referring potential cases subject to the Sexual Violent Predator Program for Civil Commitment.

The report reflects that as a result of the OPAGGA analysis, this agency had found a programming error resulting in late referrals. The department actually identified the problem several weeks prior to the analysis, and had already implemented corrective measures. As part of our initial response, we advised OPAGGA of the prior error and corrective measures already implemented.

The initial results of the OPAGGA review and analysis were immediately analyzed, and corrective measures developed, along with a Corrective Plan of Action.

Develop oversight reports to allow timely tracking of referral information; weekly reports are generated to the Regional Directors for review and to ensure compliance of the statutory requirements within each region.

Region Training Sessions were conducted and completed by 12/10/07; training included overview of Statutory requirements for referrals, programming changes, collection of data techniques, and general resources available to assist in making a timely referral.

Three Phase Project for Backlog Cases: In order to work backlog of cases past due for referrals, the following schedule was developed and implemented.

The purpose of this project was to eliminate past due referral back log by 12/31/2007. Beginning 12/03/07 all cases coming into the 590 window of time prior to release were monitored, and to have new tracking method in place for all future referrals starting with January 2008.

Phase I:	10/29/2007 – 11/15/2007 :	cases within 180 days of release
Phase II:	11/16/2007 – 12/13/2007 :	cases 181 through 360 days of release
Phase III:	12/14/2007 – 12/31/2007 :	cases 361 – 545 days of release

Note: these dates were slightly adjusted to accommodate holidays.

Programming was developed to identify and track all cases sentenced or received with less than the statutorily required time frame of 545 days. These cases will be processed within 30-60 days of receipt in department custody.

FDOC Response to OPPAGA's 2007 Report

2/17/2008

Page 2

Release Management Staff assigned to the SVP Case load (referred to a Jimmy Ryce Unit) will continue to monitor statutory time compliance on all eligible cases. Each referral received from the field is reviewed to ensure all information available has been included, the release dates are correct, and any additional information related to case is made available to DCF.

We have implemented new standards into the Operational Review Process to cover identifying, collecting and processing data, as statutorily required. This process is an assessment tool implemented to assist managers at all levels within the Department of Corrections, from field offices and institutions to the Office of the Secretary. Its principle objectives are to measure compliance with applicable criteria, to provide managers with timely, accurate and concise reports, and to provide a mechanism for verifying that reported deficiencies are corrected. The three standards directly affecting the referral process are listed below:

REVIEW STANDARDS: GENERAL AUTHORITY: Procedure 601.213

- **7.09.010** - Classification staff will identify inmates with applicable offense histories who are within the statutory time frame for review by the automated case management appointment log system. The OBIS "Case Management Log" IM03 entry will be updated to note inmate's eligibility or ineligibility.
- **7.09.020** - Information Packets will be properly completed as prescribed by the "Sexually Violent Predator Packet Checklist", DC6-154 and forwarded to the Bureau of Classification and Central Records, Release Management unit, at least 575 days prior to inmate's forecasted release date. If the forecasted release date is less than 545 days, then the packet will be sent to Release Management within 60 days of the date the inmate is received by the department.
- **7.09.030** - The DC90 Victim Data screen will be completed prior to forwarding the packet.

Page 6 & general report information:**Joint Efforts between DC and DCF:**

- The department has met with the DCF-SVP to work out mutual issues with new process, and to expand the open communication lines for individual case management, as needed. As a result of identified problems in their ability to obtain additional documentation from other states, we are working with their staff and both agencies Legal Staff to develop a joint letter of agreement to use in future requests of this nature. We will continue to assist on individual cases as needed.
- We will be assisting with criminal justice information on emergency and/or immediate releases, as needed.
- We will track Florida Parole Commission cases, and provide individual updates as needed.
- Even though we currently discuss cases through telephone communications, we will try to meet at least once quarterly to discuss progress, and any problem issues.