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December 6, 2018

**Senate Judiciary and Public Safety Finance and Policy Committee**

Senator Warren Limmer, Chair	Senator Ron Latz, Minority Lead
3221 Minnesota Senate Bldg.	2215 Minnesota Senate Bldg.
St. Paul, MN 55155	St. Paul MN 55155

**House Public Safety and Security Policy and Finance Committee**

Representative Brian Johnson, Chair	Representative Debra Hilstrom, Minority Lead
359 State Office Bldg.	245 State Office Bldg.
St. Paul MN 55155	St. Paul, MN 55155

Dear Honorable Senators and Representatives:

Minn. Stat. § 241.272 authorizes the Department of Corrections (DOC) to collect supervision fees from offenders on probation and supervised release and directs the department to report annually on fees imposed and collected. The purpose of the supervision fee is to defray costs associated with providing correctional services.

This report contains a fiscal year summary of supervision fee assessment and collection, including information on the types of correctional services for which fees were imposed, the aggregate amount of fees imposed, and the amount of fees collected.

**Types of Correctional Services for which Fees are Imposed**

The department provides correctional services for various types of community supervision. Community supervision services include random searches, face-to-face meetings, rehabilitative programming, curfew schedules, testing for chemical abstinence, and any other conditions that are deemed appropriate by the court or the commissioner. The types of correctional services are as follows:

- **Probation** – a court-ordered sanction imposed upon an offender for a period of supervision as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation (Minn. Stat. § 609.02, subd. 15).

- **Supervised Release and Parole** – a period of community supervision to be served after the term of imprisonment as defined under Minn. Stat. § 244.01, subd. 8, or for a term determined by the commissioner for a life-sentenced offender.
- **Conditional Release** – community supervision to be served under the authority of the commissioner for a period mandated by statute based on the specific offense committed by the offender, such as felony DWI under Minn. Stat. § 169A.276, subd. 1(d), and criminal sexual conduct under Minn. Stat. § 609.3455.
- **Intensive Supervised Release (ISR)** – a special supervision program for high-risk offenders pursuant to Minn. Stat. § 244.05, subd. 6.
- **Challenge Incarceration Program Phases II and III (CIP)** – community supervision as part of the Challenge Incarceration early-release program pursuant to Minn. Stat. §§ 244.17-244.172.
- **Conditional Release of Nonviolent Controlled Substance Offenders Program (CRP)** – community supervision as part of the early-release program for nonviolent controlled substance offenders pursuant to Minn. Stat. § 244.055. This program expired July 1, 2011, and was reinstated July 1, 2013. See Minnesota Laws 2009 Ch. 83, Art. 3, § 11 and MN Laws 2013 Ch. 86 Art. 3, § 3.

#### Fee Assessment

The supervision fee is imposed upon each person supervised by DOC state and contract agents at the time supervision begins. In the past, the fee was charged for each year of supervision. In 2009, the DOC began assessing a one-time supervision fee per case file to establish consistency with other correctional agencies and for administrative efficiency. Fees are assessed per court file in the amount of \$300 for each felony, \$200 for each gross misdemeanor, and \$100 for each misdemeanor. The fees are assessed at the onset of supervision, less any amount already collected for that offense.

#### Fee Collection<sup>1</sup>

Per statutory instruction, supervision fees collected by DOC state agents are deposited into the General Fund, while fees collected from offenders supervised for misdemeanor offenses by DOC contract agents under Minn. Stat. § 244.19, subd. 1(a)(3) are deposited with the county treasurer in the county where supervision is provided.

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<sup>1</sup> Previous reports included Administrative Hearing costs related to contested revenue recapture hearings. However, the administrative process changed and those costs are no longer reported.

**Table 1** reflects the aggregate amount of fees imposed and collected for the 2017 and 2018 fiscal years. Please note that fees imposed during any given year may be collected in a subsequent year, as offenders are allowed to pay the fee over the course of one year. Due to the timing of assessment and collection, it remains difficult to project the compliance rate.

In FY2011, internal and external measures resulted in changes to the collection of fees through revenue recapture. The department's internal policy established a process for removal of any revenue recapture claims outside of the six year statute of limitations for collection. Software changes at the Minnesota Department of Revenue also impacted the department's ability to collect supervision fees through recapture, as the new software only accepts recapture claims where the taxpayer has filed a tax return in the past four years. Previously, a claim could be submitted if the taxpayer had ever filed a tax return. The change has resulted in an increased number of debtors whose unpaid fees cannot be collected through recapture.

The commissioner is authorized to waive payment of supervision fees or to require completion of community work service in lieu of payment. In FY2009, the department amended its internal policy to limit the availability of waivers and to provide for completion of community work service in lieu of direct payment. **Table 2** illustrates the reasons for waivers, along with the rate of each waiver to the number of fees imposed. In 2017, Minn. Stat. § 3.739 subd 2; Injury or Death of Conditionally Released Inmate, which covers the medical claims from offenders injured while completing *court ordered* STS or community work service (CWS) was interpreted disallowing Minn. Stat. § 244.18; Local Correctional Fees; Imposition on Offenders to include STS and CWS for waivers beginning July 1, 2016. However, on May 30, 2017 new language was added to Minn. Stat. § 3.739 subd. 2, allowing for medical claim coverage when performing work in lieu of statutorily authorized correctional fees and once again making STS and CWS eligible for supervision fee waivers. In FY2018 10,068 fees were imposed with 249 waived. This is a waiver rate of 2.5 percent.

## **Table 1: Supervision Fees Imposed and Collected for FY2017 and FY2018**

<i>Release Type</i>	<i>2017 Fees Imposed</i>	<i>2018 Fees Imposed</i>
CIP	\$ 112,200	\$ 86,100
ISR	57,300	64,500
CRP	3,600	3,000
Probation	2,006,220	1,978,800
Supervised Release	284,700	342,100

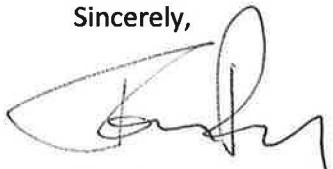
<b>Total</b>	<b>\$2,464,020</b>	<b>\$2,474,500</b>
<i>Release Type</i>	<i>2017 Fees Collected</i>	<i>2018 Fees Collected</i>
CIP	\$ 58,619	\$ 52,066
ISR	13,225	13,853
CRP	1,500	1,105
Probation	716,745	725,467
Supervised Release	87,634	102,678
<b>Total</b>	<b>\$877,724</b>	<b>\$895,169</b>
Disbursement 2018		
General Fund \$652,244		County \$242,925

**Table 2: Supervision Fee Waivers by Release Type for FY2018**

<i>Waiver Type</i>	<i>Special Supervision (ISR/CIP/CRP)</i>	<i>Probation</i>	<i>Supervised Released</i>	<b>Total Number of Waivers</b>	<b>Waiver Rates</b>
Death	4	55	12	71	.7
Under \$25 – No Revenue Recapture	5	44	9	58	.6
Work Service	5	112	3	120	1.2
<b>Total Waivers</b>	<b>14</b>	<b>211</b>	<b>24</b>	<b>249</b>	<b>2.5</b>

Please contact me if you have questions regarding this report.

Sincerely,



Tom Roy

Commissioner

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The total cost of salaries and supplies incurred in development and preparation of this report was \$1,852 (reported as required by M.S. 3.197).

