

920052

LEGISLATIVE REFERENCE LIBRARY  
HV7273 .A6 1991f  
Minnesota. Gove - Final report / Governor's Commissi

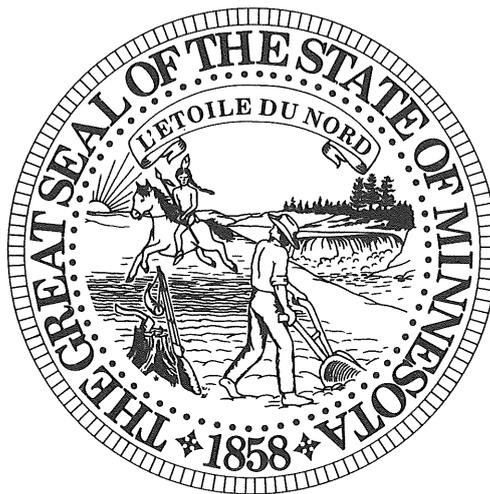


3 0307 00056 3828

**Governor's Commission  
on Violent Crimes**

**FINAL REPORT**

**December 18, 1991**



**Arne H. Carlson  
Governor**

LEGISLATIVE REFERENCE LIBRARY  
645 SELIGMAN BUILDING  
SAINT PAUL, MINNESOTA 55155

HV  
7273  
.A6  
1991f

JUN 30 1992

**GOVERNOR'S COMMISSION  
ON VIOLENT CRIMES**

**CO-CHAIRS:**

Honorable Joanne Benson  
Minnesota Senate  
St. Cloud, Minnesota

Kevin Johnson  
Prosecutor  
Hennepin County Attorney's Office  
Minneapolis, Minnesota

**MEMBERS:**

Honorable Catherine Anderson  
Judge  
4th Judicial District Court  
Minneapolis, Minnesota

Don Davis  
Chief  
Brooklyn Park Police Department  
Brooklyn Park, Minnesota

Cordelia Anderson  
Director  
Illusion Theatre Prevention Program  
Minneapolis, Minnesota

William Finney  
Captain  
St. Paul Police Department  
St. Paul, Minnesota

Donna Anderson  
Director  
Crime Victims Council  
St. Paul, Minnesota

Tom Heffelfinger  
United States Attorney  
Minneapolis, Minnesota

Gail Baez  
Prosecutor  
Hennepin County Attorney's Office  
Minneapolis, Minnesota

Linda Henry  
Victims' Advocate  
Park Rapids, Minnesota

Miki Mayer Blackmon  
Womens' Political Caucus  
Minneapolis, Minnesota

Phil Herwig  
Farmer  
Milaca, Minnesota

Ann Carrott  
Douglas County Attorney  
Alexandria, Minnesota

Herbert "Skip" Lefler  
Public Defender  
Lefler Law Office  
Minneapolis, Minnesota

Jacqueline Clark  
Executive Director  
MN Coalition of Sexual Assault Srvcs.  
Minneapolis, Minnesota

Honorable Marcus Marsh  
Minnesota House of Representatives  
Sauk Rapids, Minnesota

Gary McCloud  
Captain  
Dakota County Sheriff's Department  
Hastings, Minnesota

Patricia Neils  
Board Member  
Home Free Battered Womens' Shelter  
Plymouth, Minnesota

Gary Nelson  
Sheriff  
Ottertail County  
Fergus Falls, Minnesota

Honorable Tom Neuville  
Minnesota Senate  
Public Defender, Rice County  
Northfield, Minnesota

Bonnie Rauenhorst  
Educator  
Children's Country Day Farm  
St. Paul, Minnesota

Mary Raymond  
Violence Against Women Coalition  
Minneapolis, Minnesota

George Soule  
Trial Lawyer  
Bowman and Brooke Law Firm  
Minneapolis, Minnesota

Emily Ann Staples  
Former State Senator  
Minneapolis, Minnesota

Beverly Warren  
Co-director Northwoods Coalition  
for Battered Women  
Bemidji, Minnesota

STAFF PROVIDED TO THE  
GOVERNOR'S COMMISSION ON VIOLENT CRIMES:

Chuck Anderson  
Department of Public Safety  
8St. Paul, Minnesota

Kim Herd  
Attorney  
Minneapolis, Minnesota

Kevin Burns  
Department of Public Safety  
St. Paul, Minnesota

Kari Seime  
Attorney  
Minneapolis, Minnesota

Dana Pagitt  
Department of Public Safety  
St. Paul, Minnesota

Geoff Michel  
Governor's Office  
St. Paul, Minnesota

SPECIAL THANKS TO:

Dick Bernick  
St. Cloud, Minnesota

Dean Dainsberg  
Alexandria, Minnesota

Roger VanHeel  
St. Cloud, Minnesota

Dana Hentges  
St. Paul, Minnesota

Dr. Robert Lynch  
Edina, Minnesota

Hennepin County Attorney's Office  
Minneapolis, Minnesota

ACKNOWLEDGEMENT:

We would like to thank all of the people who came forward to testify during the community leaders meetings and the public hearings, and all of the people who submitted written material to the Commission. Their contributions were essential to the success of this project.

We would also like to thank the Department of Public Safety and the Department of Corrections for their financial support, without which the work of the Commission would not have been possible.

HOSTING FACILITIES:

Stearns County Law Enforcement Center  
St. Cloud, Minnesota

St. Cloud State University  
St. Cloud, Minnesota

Bemidji State University  
Bemidji, Minnesota

St. Louis County Courthouse  
Duluth, Minnesota

Grand Rapids High School  
Grand Rapids, Minnesota

Sabathany Community Center  
Minneapolis, Minnesota

American Indian Center  
Minneapolis, Minnesota

Hennepin County Government Center  
Minneapolis, Minnesota

Neighborhood House  
St. Paul, Minnesota

Como Senior High School  
St. Paul, Minnesota

State Office Building  
St. Paul, Minnesota

Winona State University  
Winona, Minnesota

St. Olaf College  
Northfield, Minnesota

Southwest State University  
Marshall, Minnesota

Alexandria Technical College  
Alexandria, Minnesota

# CONTENTS

	Page
<b>INTRODUCTION</b>	1
<b>A. THE OFFENDER</b>	
I. Predatory Offenders	3
II. Criminal Penalties	4
III. Correctional Facilities and Practices	7
IV. Juvenile Justice System	10
<b>B. THE VICTIM</b>	
I. Sexual Violence	13
II. Domestic Violence	14
III. Children's Safety Centers	15
IV. Victim's Rights and Services	16
<b>C. THE CRIMINAL JUSTICE SYSTEM</b>	
I. Law Enforcement	22
II. Prosecution and Defense	25
III. Judiciary	28
IV. Probation Officers and Parole Agents	30
<b>D. THE COMMUNITY</b>	
I. Family	33
II. Schools	35
III. Public Education	36
IV. Media and Television	38
<b>E. FINANCE</b>	40
<b>F. FURTHER STUDY</b>	42
<b>CONCLUSION</b>	45

## INTRODUCTION

In the summer of 1991, Minnesotans were besieged with news about violent crime. Newspaper headlines told of drug-related shootings. Television news reported several tragic sexual assault and murder cases. Radio announcers commented on the spread of violence from the metropolitan areas to Greater Minnesota. Citizens were becoming afraid, and they were becoming angry.

During the last year, the number of murders in Minnesota has gone up 13.8%. At the same time, the number of rapes has increased 20.8%. Overall, Minnesota's crime rate has mirrored a trend nationally over the last 20 years. For purposes of clarity, violent crime is being defined as crimes against the person, as opposed to property offenses. Since 1970, the rate of violent crime in this state has doubled.

Many of these tragedies received statewide media attention, and began a groundswell of anger and concern among the citizens of Minnesota. That outcry did not fall on deaf ears at the State Capitol. Governor Arne Carlson announced the formation of the Governor's Commission on Violent Crimes, a 25-member panel made up of representatives of law enforcement, victims' advocates, prosecutors, defense attorneys, judges, lawmakers, and citizens.

This group's mission was two-fold. The first was to gather input from around Minnesota about what changes needed to be made in our criminal justice system, and how we as a state could balance victim's rights with those of the accused. Second, the Commission was to explore ways to change Minnesotan's attitudes, so that violent behavior would no longer be tolerated.

Obviously, neither of these goals could be accomplished overnight. A comprehensive plan to gather public input was developed so that Commission members could hear from community leaders, those already involved in various aspects of the problem of violent crime, as well as from members of the public in each community. Eight weeks were devoted solely to traveling around the state. Members held community leaders meetings and public hearings in St. Cloud, Bemidji, Duluth, Grand Rapids, Minneapolis, St. Paul, Winona, Northfield, Marshall, and Alexandria. Commission members and staff traveled over 2,200 miles during this time.

All of the meetings were conducted without a pre-determined agenda, so as to maximize the time and ability of Commission members to hear from the public. The role of the Commission was to listen, ask informational questions, and take notes. All meetings were recorded on audio cassette for review by Commission members, and all meetings were open to members of the public. Media representatives also reported on Commission hearings in each of the communities visited.

In order to add efficiency to the monumental task of compiling information gathered from the public, subcommittees of the Commission were formed shortly after the testimony concluded. The composition of each subcommittee was based on a member's expertise. Members were divided so that those with similar backgrounds were not all placed on the same subcommittee, however all members were given the option of having input to any of the subcommittees. Subcommittees used information gathered in community leaders meetings, public hearings, letters sent to the Commission, and various reports and other materials submitted by members of the public, state officials, and experts in the area of violent crime.

What follows in these pages represents nearly 50 hours of public testimony from all corners of Minnesota. This report is based solely on that testimony, and in no way reflects the personal agendas of any given Commission member.

None of the Commission members were compensated for their work. Each served strictly on a volunteer basis. No one, not even the co-chairs and assigned staff, was paid a per diem. Simple expenses, such as overnight accommodations, mileage, and meals, were reimbursed in accordance with state guidelines.

It should be noted that it would have been very easy for politicians and others to formulate recommendations based only on the sensational and tragic headlines of the summer of 1991. This commission attempted to avoid that knee-jerk, quick-fix reaction in dealing with the serious problem of violent crime. Public policy of any kind cannot be truly effective and relevant if it is done in a vacuum. That is why no one was excluded from this vital process.

## A. THE OFFENDER

This section contains discussion and recommendations in the following areas:

Predatory Offenders  
Criminal Penalties  
Correctional Facilities and Practices  
Juvenile Justice System

### Predatory Offenders

- **The Commission recommends the creation of a classification known as predatory offenders. Those offenders convicted of violent crimes and found to be predatory offenders will be sentenced under a separate sentencing guidelines grid that contains provisions for life without parole.**
- **The Commission recommends that Minnesota's Psychopathic Personality Commitment Statute be more frequently utilized, and that the courts consistently follow Minn. Stat. Sec. 609.1351. (Petition for Civil Commitment).**
- **The Commission recommends that the Legislature authorize, and the Supreme Court approve, the creation of a panel of judges with statewide jurisdiction to handle psychopathic personality commitments.**
- **The Commission recommends that the Office of Attorney General assume responsibility for psychopathic personality commitment petitions when requested by counties in Greater Minnesota.**

County attorneys, law enforcement officials, and other experts testified on several occasions that approximately 70% of all violent crimes in Minnesota are committed by approximately 6% of offenders. This startling statistic clearly demonstrates that something needs to be done to keep violent repeat offenders off the streets for good.

Under the Commission's recommendation, when a defendant is charged with a certain violent crime and a prosecutor seeks to have him or her sentenced as a predatory offender, the prosecutor must serve notice on the defendant in advance of trial. If the defendant is convicted of the crime charged, the prosecutor will then make a motion to have the defendant sentenced as a predatory offender, taking into consideration aggravating and mitigating factors. If the defendant is determined to fall within the

classification of predatory offender, the defendant will be sentenced under the separate guideline grid for predatory offenders. This grid will be much more severe than the standard sentencing grid. It is anticipated that fewer than five percent of offenders will be adjudicated predatory offenders. Therefore incarcerating these few predatory offenders for extended periods up to life without parole will not have a major impact on prison populations.

Currently, roughly ninety percent of all psychopathic personality commitments take place in Hennepin County. Outside the Twin City metropolitan area, such commitments occur about once a year. Greater use of the psychopathic personality commitment statute needs to be made to properly identify, treat, and house these offenders. Training all judges throughout the state in the use of this statute, however, would be expensive and inefficient. Considering the infrequency with which judges in Greater Minnesota deal with psychopathic personality cases, it makes more sense to train a small group of judges, give them statewide jurisdiction, and have them handle all such cases.

Likewise, due to the small number of psychopathic personality commitment cases seen in Greater Minnesota, the Commission recommends the Attorney General's office assume responsibility for those petitions when requested by the local county attorney. This would save both time and money.

### Criminal Penalties

- **The Commission recommends that the Department of Corrections and Sentencing Guidelines Commission abolish the concept of "good time" and substitute sentences in favor of truth in sentencing. Alternative sanctions within prison institutions should be used instead to control "bad behavior".**
- **The Commission recommends alternative sentences for property offenders, so as to allow adequate space in correctional facilities for violent offenders.**
- **The Commission recommends that there be a presumption in favor of consecutive sentences for violent crimes constituting separate behavioral incidences.**
- **The Commission recommends that penalties for violent crimes be strengthened.**

- **The Commission recommends that Minnesota law be amended to provide that a person who is arrested on a drunk driving charge should not be able to post bail or bond and leave the jail in an intoxicated state.**
- **The Commission recommends Minnesota statutes be amended to allow felony prosecution of repeat drunk drivers.**
- **The Commission recommends that the Legislature conduct a full reevaluation of the Minnesota Sentencing Guidelines.**
- **The Commission recommends that the Sentencing Guidelines Commission assign a criminal history point for every prior DWI conviction when a sentence is imposed for criminal vehicular operation.**

Currently in Minnesota, if a person is sentenced to a state correctional facility, the length of his or her term is determined by a sentencing guidelines grid. This grid takes into consideration the severity of the crime, as well as previous convictions of the offender. Right now, however, offenders in Minnesota correctional facilities receive one day off their sentence for every two days served, provided the offender follows the rules and regulations of the correctional facility. This is known as "good time", and amounts to a one-third reduction in any given sentence. Correctional facilities take away that "good time" as a sanction to offenders who violate facility rules and regulations.

The Commission heard testimony from victims across the state who were outraged by the concept of "good time", especially for violent offenders. The Commission's recommendations would abolish "good time", and change the sentencing guidelines grid to reflect a sentence of actual time served. Following completion of the sentence and release, an offender would be placed on supervised release for a period of ten years. The first five of those years of release would be under intense supervision. In addition, correctional facilities could impose other internal sanctions, such as solitary confinement or visitor privileges to control "bad behavior".

In 1990, there were 37,458 drunk driving arrests and 34,886 drivers' license revocations. Of the revocations, 15,483 had prior license revocations. A total of 11,311 gross misdemeanor drunk driving charges were filed in 1980. In 1988, 36 percent of jail inmates were DWI offenders. Additionally, there were 235 alcohol-related fatalities in 1990. Of the 229 drunk drivers involved in these fatalities, 79 had prior DWI convictions or alcohol-related license revocations.

The Commission heard powerful testimony from victims and surviving family members of repeat drunk drivers. These victims stress that drunk driving is a violent crime, and should be classified as such. Not only do drunk drivers take the lives of numerous victims, but their actions severely affect the lives of the victims' families and friends forever. Habitual drunk drivers who are unamenable to alcohol rehabilitation are time bombs waiting to go off. Many refuse to participate in alcohol treatment programs and resume drinking and driving immediately upon their release from incarceration. Our society should not have to wait until these drunk drivers kill or maim an innocent victim before they are locked away.

Under current Minnesota law, the most stringent sentence a repeat drunk driver (who has not killed or injured someone) may receive is one year in a local jail. Currently, drunk driving penalties and offenses are classified under the traffic regulations chapter of Minn. Stat. Sec. 169.01 et. seq. The maximum penalty a repeat drunk driver may be charged with is a gross misdemeanor. The inequity of this penalty provision is reflected in the fact that Minnesota assigns felony penalties for less serious offenses, such as leaving the scene of an accident (Minn. Stat. Sec. 169.09). All of these facts contribute to creating a public perception that Minnesota law regards drunk driving offenses as less than serious in nature.

The appropriate solution lies in imposing felony charges on persons who are arrested on multiple occasions for drunk driving offenses (whether or not they kill or injure anyone). Such a law will serve to preserve the lives of innocent victims. More importantly, however, it will help to change the public perception that drunk driving offenders are treated leniently. A felony provision will also deter offenders from repeating their crime and, when necessary, force them to get treatment.

As a final proposal, Minnesota law should be amended to provide that a person who is arrested on a drunk driving charge should not be able to post bail or bond and leave the jail in an intoxicated state. As one judge testified before the Commission, he has witnessed several incidents where a drunk driver posts bail, only to be re-arrested a couple of hours later for the same offense.

The current Minnesota sentencing guidelines structure is the result of an eleven-year response to a variety of highly publicized criminal cases. This response has not

been coordinated or systematic, but rather has been sporadic and piecemeal. Both the Legislature and Sentencing Guidelines Commission have responded to publicized problems in a reactionary and not a planned fashion.

After more than eleven years of existence, the guidelines need a comprehensive review. Since the enactment of the sentencing guidelines in Minnesota, comparable systems have been enacted in other states and at the federal level. Minnesota should take advantage of the lessons learned in those other jurisdictions. Therefore, the Commission recommends the Legislature study the present guidelines structure to determine if the guidelines are adequately serving the state's law enforcement policies. In particular, the adequacy of sentences for violent crimes should be studied, especially in view of the frequency of downward sentencing departures and plea bargains.

The Commission heard varying testimony regarding the enactment of death penalty legislation in Minnesota. Some citizens testified in favor of the death penalty, others opposed such legislation. Commission members discussed this testimony among themselves, and were unable to reach a consensus. Therefore, the Governor's Commission on Violent Crimes takes no position on the issue of the death penalty.

### **Correctional Facilities and Practices**

- **The Commission recommends that Minnesota statutes be amended to prohibit the practice of releasing violent offenders from state correctional facilities on weekends and holidays, or anytime without an escort.**
- **The Commission recommends that Minnesota's sex offender registration law be expanded to require all sex offenders to be registered with local law enforcement officials during supervised release, and maintain registration for a period of 10 years following their discharge from supervised release.**
- **The Commission recommends the creation of a secure facility to house psychopathic personality commitments separate from mental illness commitments.**
- **The Commission recommends that the Department of Corrections design and implement a plan for double-bunking inmates in all current and future correctional facilities.**

- **The Commission recommends that any judge granting a name change to an inmate in a correctional facility be required to report the name change to the Bureau of Criminal Apprehension.**
- **The Commission recommends the criminalization of the failure by a convicted felon to report a name change to the Bureau of Criminal Apprehension.**
- **The Commission recommends that all forms of pornography be prohibited from state correctional facilities.**
- **The Commission recommends that the Legislature reform the Community Corrections Act to provide increased state financial aid for local jails.**
- **The Commission recommends that the Legislature authorize the Department of Corrections to assist counties in planning to meet their jail space needs, including the development of regional jails to achieve economies of scale.**
- **The Commission recommends that a greater share of the state's budget be devoted to crime prevention, law enforcement, and corrections efforts.**
- **The Commission recommends as part of a general overhaul of Minnesota's Data Privacy Act, that crime victims should have greater access to perpetrators' corrections records.**
- **The Commission wishes to adopt by reference and incorporate the recommendations of the Department of Corrections report titled "Risk Assessment and Release Procedures for Violent Offenders/Sexual Psychopaths."**

Currently in Minnesota, when an offender's sentence expires, he or she is released from a correctional facility on that date, regardless if it falls on a weekday, weekend, or holiday. Such was the case in June 1991, when an offender was released on a weekend from a state correctional facility. The repeat sex offender was to report to a halfway house upon his release. Because his sentence expired on a weekend, however, there were no supervisory personnel available to make sure he in fact reported to the halfway house. Had the offender been released on a weekday, he would have been supervised and forced to report to the halfway house. The Commission heard testimony from parents, family, and friends about this senseless tragedy. Testimony from them, and from law enforcement and corrections officials support the Commission recommendation that no inmate should be released from a state correctional facility on a weekend or holiday.

In the past, formulation of Minnesota's sentencing policies has been dominated by limited state prison space. One of the overriding factors in setting sentencing guidelines has been whether they would result in filling state prisons. While the overall corrections budget must be a consideration, sentencing guidelines must be formulated on their own merits, taking into account such factors as punishment, deterrence, incapacitation, and rehabilitation. To achieve these objectives in sentences, we must not be unduly restrained by a limited corrections budget. The state may have to spend more to meet sentencing policies.

Current projections by the Department of Corrections estimate that Minnesota's prison population will rise by approximately one-third by 1994. The Department expects to meet the projected needs through the 1992-93 biennium. Both of these projections, however, are conservative in that they are premised on continuing the state's present sentencing policies. After 1993, even if policies remain unchanged, and certainly if sentences are increased or plea bargains restricted, the state will face saturation of its present correctional facilities.

The Commission therefore recommends that a two-fold plan be pursued now to address the virtually inevitable prison space demands of the mid-1990's. First, we recommend that the Department of Corrections implement a plan for double-bunking in present state correctional facilities. Total double-bunking of all existing facilities is simply not feasible because of the stress it would place on support services such as kitchen, laundry, and recreation. We have confidence that the Department of Corrections can devise such a plan to conserve space, maintain humane and secure living conditions, and save resources that may be devoted to prevention or treatment efforts. The Commission also recommends that construction of all future state correctional facilities provide for the possibility of double-bunking.

State government decisions have placed additional burdens on local jails. Until recently, the state has failed to expand prison space, often leaving incarceration in county jails as the only realistic sentencing option. State sentencing policies have also been influenced by available prison space, again placing burdens on local jails. The Legislature's creation of additional crimes and penalties and state agencies' increased enforcement efforts also have contributed to prison overcrowding.

All of these factors, in addition to the growth of crime, have heavily burdened county jails. According to the Legislative Auditor, jail populations will increase by over one-third from 1990 to 1993. In 1989, more than sixty percent of the state's local detention facilities were operating over optimal capacity levels. County officials are struggling to solve the jail space problem. The effects of lack of jail space are dramatic. Judges often avoid incarceration or shorten sentences of convicted criminals. In many counties, there are long waiting lists for offenders to begin serving their jail sentences. There can be little doubt that the lack of jail capacity has had some deterrent effect on arrests and prosecutions, and has increased plea bargains.

Because the counties are implementing state law enforcement policies, and recent changes in those policies have increased jail populations requiring new and expanded jails, the Commission recommends that the state take a more active role in addressing the jail space of our counties. The Legislative Auditor reports that 31 counties are currently planning or building new jail facilities or expanding existing ones. These efforts have greatly burdened the budgets of our counties, which are already strained by state revenue sharing cutbacks and increased social service needs. The Legislature should act immediately to provide state assistance in these efforts. The Community Corrections Act should be reformed to provide increased state funding for local jail facilities. In addition, the Act should be amended, if necessary, to authorize the Department of Corrections to assist counties with flexible, innovative plans to solve local jail needs. Such proposals could include the development of district or regional jails. Rather than have several counties build new jails, one new regional jail could meet the needs of the counties in the area. A regional jail could achieve economies of scale not possible with multiple county jails. In the interim, county jails could be used for short term detainees, defendants awaiting trial, or inmates involved in community work-release programs. Regional jails could be reserved for offenders sentenced to determinate periods.

### Juvenile Justice System

- **The Commission recommends all juvenile sex offenders complete a sex offender treatment program.**

- **The Commission recommends that jurisdiction over juvenile offenders be extended to age 21.**
- **The Commission recommends creation of juvenile disposition guidelines to promote expeditious disposition.**
- **The Commission recommends creation of a secure juvenile treatment facility.**

Witnesses from many parts of the state testified as to the success rate in treating juvenile offenders. Officials from Hennepin County testified that 94 percent of the juveniles completing the Sex Offender Treatment Program do not commit another sex offense. The number of repeat offenders drops to zero for juveniles in the program for 16 months or longer. Implementation of similar treatment programs statewide should be considered as a way to reduce violent crime in the future.

Presently, an individual who commits a crime before reaching the age of 18 enters the juvenile justice system. In extremely rare cases he or she may be certified to the adult court for prosecution. If not certified, he or she must be treated and/or punished within the juvenile justice system. The juvenile court loses jurisdiction on an individual's 19th birthday. On that date, the individual must be released from custody or discharged from treatment whether he or she is ready or not. The fact that this individual may create a risk to public safety is not taken into consideration.

Thus, the Commission recommends that the jurisdiction of the juvenile court be extended an additional two years to age 21. This would permit courts to impose long-term treatment programs on 16 and 17-year old individuals and afford them additional time to impose punitive sanctions on those who demonstrate poor success in treatment programs.

Many juvenile offenders would never have entered the system if their problems had been identified at an early age. To this end, elementary school teachers should be trained to spot at-risk children in their classrooms. Social workers and child psychologists should play a more important role in the grade school system. Indeed several educators testified that with specialized training, they could readily identify at-risk children. Based on this early identification, children must be put into intervention /treatment programs. Prevention of this nature would reduce the amount of tax dollars spent on the juvenile justice system.

Under the present juvenile justice system, several months may elapse between the time a juvenile is charged with an offense and the time of disposition. Consequently, many juveniles commit additional offenses in the interim. In order to speed up the disposition process, parents should be immediately notified of any citation received by their child, and court appearances should be scheduled more quickly. Juvenile disposition guidelines would promote more expeditious dispositions and force county attorneys to adhere to a uniform time within which to bring charges.

## **B. THE VICTIM**

This section contains discussion and recommendations in the following areas:

Sexual Violence  
Domestic Violence  
Children's Safety Centers  
Victim's Rights and Services

### **Sexual Violence**

- **The Commission recommends mandatory, confidential HIV testing of all convicted violent offenders, with results available to the victim upon request.**
- **The Commission recommends that the Bureau of Criminal Apprehension's sexual offender profiling programs, MN/SCAP and ViCAP, be adequately funded.**

Testimony from many parts of the state came from victims of sexual violence. All expressed anger with their perpetrator and with the system. Many feel crime victims should be able to require HIV testing of their convicted perpetrator. Under the recommendation of the Commission, testing will be mandatory and confidential. The results of such a test will be available to the victim upon request. The results will also be disclosed to the offender.

The Bureau of Criminal Apprehension has adopted some of the most advanced scientific methods, developed by the FBI's Behavioral Sciences Unit, for tracking repeat sexual and violent offenders. These programs use computer based "profiling" to track these offenders by physical description, modus operandi, victim selection, and other distinguishing factors. These programs, MN/SCAP and ViCAP (Minnesota Sex Crimes Analysis Program and Violent Criminal Apprehension Program) need the cooperation of local law enforcement to be effective, and funding must be maintained to train peace officers in implementing these programs.

## Domestic Violence

- **The Commission recommends that law enforcement agencies consistently enforce orders for protection (OFP).**
- **The Commission recommends that the Minnesota Coalition for Battered Women review procedures for obtaining orders for protection statewide, and make recommendations to the Legislature, the Supreme Court and the Governor.**
- **The Commission recommends that assaultive behavior that occurs in a domestic relationship be treated as seriously as any other assaultive behavior.**
- **The Commission recommends that the Legislature increase public and law enforcement awareness of the Minnesota Stalking/Harassment law.**
- **The Commission recommends the creation of a toll-free telephone number to serve as a resource for victims of domestic violence in Greater Minnesota.**

Many people testified to being victims of domestic violence. A common frustration of these victims was the fact that the system ignored their needs and seemed to intrinsically diminish the seriousness of the offense. Many were also distressed by the lenient sentences received by perpetrators, and the pervasiveness of victim-blaming. One woman in Winona, who suffered serious injury as a result of domestic violence, related how her ex-husband's fifth degree assault charge was heard in traffic court.

Several crime victims told the Commission that when they had complained to their local law enforcement agencies about a former domestic partner following them everywhere, showing up at unexpected times and places, and generally harassing them, they were told there was nothing the police could do unless the person committed a new crime. Many law enforcement personnel are unaware of Minn. Stat. Secs. 609.746 and 609.748 that were enacted in 1989 that specifically prohibit these types of stalking and harassing behaviors. Law enforcement and public awareness of these laws must be increased.

Several witnesses stated that the current system of orders for protection provides inadequate protection for the victim. Because the process for obtaining these orders is so difficult, many victims are unable to obtain them in time. Currently, orders for protection must be obtained from the District Court and are enforced by local law

enforcement agencies. It is not uncommon for the defendant to have been released before the victim has a chance to obtain the OFP. It was also suggested that the option of in-home detention for domestic violence offenders be abolished.

The Commission heard requests from judges, prosecutors, counselors, and victims for increased programs on domestic violence awareness and prevention/education. Additionally, the Commission heard testimony regarding the efficiency of current domestic violence offender treatment programs and the need for stronger programs.

### Children's Safety Centers

- **The Commission recommends statewide creation of Children's Safety Centers.**

These visitation centers will be designed to reduce children's vulnerability to violence and trauma associated with custody visitation in situations where there has been a history of domestic violence, sexual abuse, or dysfunctional family relationships. Currently, sheriff departments' parking lots and police station lobbies are de facto serving that purpose.

- A. Children's Safety Centers will provide the court system with a resource for supervised visitation and exchange of children.
  1. They will serve as a safe place for parents to exchange children for visitation, without having face-to-face contact. They will be used specifically in cases where there is a history of spousal abuse, harassment, or any other stressful visitation situation. This will prevent the child from witnessing abuse or from the possibility of being harmed.
  2. The safety center will provide visitation opportunities in situations where children have been placed in foster homes. The center will also provide the evaluation of those children being returned to previously abusive homes.
  3. Provide supervised visitation in cases where there is documented or suspected sexual, physical, or emotional abuse. Visitation would be monitored and then formally reviewed.

4. Provide parents with healthy interaction with their children. This will produce quality time and nonviolent memory building experiences, and will help mend the parent/child relationship.
- B. Children's Safety Centers will offer a constructive, non-violent curriculum to children and parents. Specifically, the centers will:
1. Provide abusive parents with appropriate violence-free conflict resolution training. Parents may then practice the skills they have learned with their children in a safe environment during visitation.
  2. Provide support classes for foster parents and custodial parents. These will aid in helping foster children work through their problems and begin a healing process.
  3. Help children to heal from past abuse by teaching them positive skills to cope with crisis situations and how to protect themselves from future abuse.

### Victims' Rights and Services

- The Commission recommends that the Legislature adequately fund crime victim services statewide.
- The Commission recommends that every county attorney's office statewide have access to victim/witness advocacy services. At the present time these services are available primarily in large urban areas. In Greater Minnesota, these should be made available through regional centers.
- The Commission recommends that the Peace Officers Standards and Training Board (POST) mandate crime victim sensitivity training as part of every officer's 48-hour continuing education requirement every three years.
- The Commission recommends annual crime victim sensitivity training for all court personnel.
- The Commission recommends that judges consistently impose fines that are mandated by Minnesota statutes.
- The Commission recommends that Minn. Stat. Sec. 626.561, Subd. 2 (c) be amended to exempt child abuse victim/witness advocates from its reporting requirements.

- **The Commission recommends that the Minnesota Crime Victims' Bill of Rights be uniformly enforced.**

Minnesota has been a leader in the pursuit of fair treatment of crime victims. In 1983, the Legislature enacted a crime victims' bill of rights and expanded the bill in 1985. Minn. Stat. Sec. 611A also created the state Crime Victim and Witness Advisory Council and the Office of Crime Victim Ombudsman which earned a National Victim Center Exemplary Service Award.

In spite of these extraordinary efforts, too many victims remain uninformed, underserved, and ignored by the criminal justice system. The impact of violent crime on primary and secondary victims is reflected in the following excerpts of testimony to the Commission:

"My life is changed forever - I am not safe - I cannot trust - I cannot function."

"I am nine years old. I feel sad because people hurt each other; sometimes they fight. I feel like violence is chasing me in my dreams. I only want it to stop. Us kids learn it from grown-ups then we grow up and pass it on to our kids!"

The rights of crime victims under Minn. Stat. Sec. 611A are not being implemented consistently or uniformly, and in many cases, not at all. One attorney working with victims testified:

"We don't need new laws. We have good laws, they need to be enforced!"

A study of Criminal Justice Professionals' Attitudes, Perceptions and Practices Toward Victims produced by the Department of Public Safety and funded by the Department of Corrections supports that testimony. The study's Executive Summary states:

"Among the most disturbing findings is that those who are most responsible for implementing victims rights within the criminal justice system, the prosecutors, are many times the least informed, the least oriented, and are the least supportive of victims rights."

In testimony to the Commission, 70 presenters expressed the need for increased funding of existing and new crime victim services statewide.

Many areas of the state lack resources for victims:

- the most recent statistics (1986) showed that about 5,200 requests (or about 65% of the total number of requests for assistance statewide) are denied annually because of lack of space in battered women's shelters.
- the 1986 statistics show that 77% of shelter requests are denied annually in the metro area.
- currently more than 50 of 87 counties have no state funded battered women's advocacy programs.
- battered women and children in many rural regions of Minnesota must call long distance and travel up to 100 miles to reach safety and assistance.

Of the 87 counties in Minnesota, only 10 have general crime victim services.

Testimony shows rural programs sometimes serve as many as 10 counties and rely heavily on recruited, trained volunteers. Small, underpaid staffs must recruit and train volunteers in addition to their numerous job responsibilities.

There are too few people of color serving as advocates, cultural sensitivity trainers, and interpreters for the court.

In 1991, the Crime Victims Reparations Board, with double the amount of claims so far this year, has a budget of approximately \$2 million. Claims are coming in at a rate of 135 a month with the potential to spend \$300,000 a month. Therefore, the Commission recommends judges consistently impose fines as mandated by Minnesota statutes.

Victim/witness advocates told the Commission that a law meant to apply to police investigations of child abuse has been turned on its head by defense attorneys and that they are now routinely subpoenaed in to court as witnesses even though they have not been part of the investigation. They strongly recommend that they be exempted from the reporting requirements of Minn. Stat. Sec. 625.561, Subd. 2 (c).

Local police agencies and prosecutors are funded out of local units of government and general revenue funds. Funding is not available to keep the necessary number of deputy sheriffs and police officers on the streets. Many people expressed their desire for a better working relationship between themselves and police.

The Department of Corrections has an annual institution budget of \$95,000,000. By comparison, the Department of Corrections' 1992 budget for victim services is \$5,972,986. Clearly, victim service agencies require additional local and private funding.

The Commission heard a variety of suggestions from community leaders and members of the public regarding programs currently in place and those planned for the future. Emphasis was placed on early education/intervention. The following is an excerpt of a letter received from a school interventionist/chemical health coordinator:

"Throwing money at the problem is not always the most effective solution but I believe adequate resources must be provided in our schools. We have two psychologists who do academic and psychological testing for 4,600 students, two elementary counselors who do developmental guidance for 2,500 students, three middle school level counselors and four high school level counselors for 2,600 students that do career as well as personal counseling. I firmly believe prevention needs to start much earlier and more resources are needed at the elementary level. I urge you to support legislation and funding for prevention efforts statewide for the schools."

A junior high school student from Duluth writes:

"In my opinion, it would be very beneficial for junior high or high school aged boys to participate in "support groups" that will help them learn new ways to deal with problems rather than using violence and also to teach them that rape is wrong, no matter what the circumstances are. At the very least, I think that non-violent problem solving should be a much bigger part in our required health classes."

The following are a few examples of what is currently being done in Minnesota:

Domestic Abuse Intervention Project - Duluth -- an interagency effort to effectively intervene in domestic assault cases.

The judicial system, through policy development and cooperation with victim advocacy and community based rehabilitation programs, can act to protect battered women. The Domestic Abuse Intervention Project in Duluth provides a model, currently being adapted in both smaller and larger cities, based on four intervention strategies.

The first strategy is to decrease the number of cases traditionally screened out of the courts. This can be done by developing police, prosecution, jail and victim advocacy

policies and procedures aimed at bringing cases into the courts rather than diverting them into social service or informal family settings for resolution. The second is to impose and enforce increasingly harsh legal sanctions on the abusers who fail to stop their battering and threatening behavior. The third is to provide victims with emergency housing, legal advocacy, and education. This network of services is essential in loosening the controls the abuser has established over the victim which he or she has typically used to protect themselves from court intervention. The fourth strategy calls for a systematic interagency communication flow on each case and monitoring of policies and procedures by a small staff separate from the court system and counseling agencies, and accountable to battered women, people of color and poor people.

Illusion Theater -- Illusion Theater's Prevention Program was one of the first programs in the country to address the issue of child sexual abuse. This program has served hundreds of people throughout Minnesota through plays, training and materials.

Other examples of prevention programs include PACER's "Let's Prevent Abuse" puppet show for children with disabilities; PROJECT SAFE, the sexual abuse prevention component of Project Charlie, a drug abuse program; "My Family and Me Violence Free", an elementary curriculum on all forms of violence prevention. Sexual abuse and interpersonal violence prevention is presented to students and teachers by sexual assault and domestic abuse programs throughout the state. School systems also provide prevention education in elementary and secondary classes annually.

IDS Financial Services -- IDS has adopted the following programs or steps to educate employees in hopes of beginning to change societal attitudes. In a letter to the Commission, IDS described the following programs it has implemented:

1. Every supervisor and manager is required to attend a sexual harassment workshop entitled "In The Eye of the Beholder."
2. Annually, we distribute a memo on sexual harassment from our president to all supervisors and managers. This memo and a "Straight Talk" brochure on sexual harassment are reviewed with every new IDS employee during their first day of orientation.

3. Through our Work and Family program, we address a wide array of needs by using internal and external experts to conduct lunch-time seminars. Examples of seminar topics include:
  - "Good Touch, Bad Touch"
  - "What Makes Families Healthy, What Makes them Hurt"
  - "Fair Fighting in Relationships"
  - "Mad is not Bad"
  - "Raising Kids from the Inside Out"
  - "Active Parenting"
4. Employees who are in a crisis situation have free access to the Employee Assistance Program counselors from Hazelden. The members of our Employee Relations staff also help employees get connected with a multitude of community service agencies.

In a letter written to the Commission, United Health Care Corporation described the following programs it has implemented:

"A second section of our company where we are active in this area is with one of United Health Care's specialty businesses, Institute for Human Resources (IHR). IHR is an employee assistance, consulting, counseling program which we offer to employers throughout the nation as a resource for helping employees deal with the entire array of work and personal issues. Our IHR program is also available internally to our United Health Care employees and their family members. During Violence Free Minnesota week, IHR staff will be conducting lunch seminars regarding their services, including programs on both domestic abuse and violence outside the home.

We have also scheduled our United Way campaign for Violence Free Minnesota week and will focus on violence as the theme for our corporate campaign. We are working with our loaned executive to obtain speakers from various agencies that deal with violence. The speakers have not yet been confirmed, but we are hoping to ask people from the Harriet Tubman Shelter for Battered Women and the Minneapolis Crisis Nursery to educate our employees about violence in Minnesota and the various resources that are available to those who experience feelings of violence."

## C. THE CRIMINAL JUSTICE SYSTEM

This section contains discussion and recommendations in the following areas:

Law Enforcement  
Prosecution/Defense  
Judiciary  
Probation Officers/Parole Agents

### Law Enforcement

- The Commission recommends state funding be increased so that rural communities are adequately protected.
- The Commission recommends every law enforcement agency be required to create a violent crime team where feasible.
- The Commission recommends the Police Officers Standards and Training (POST) Board, working in conjunction with schools, take appropriate steps to make a career in law enforcement attractive and accessible to women and minorities.
- The Commission recommends mandatory and continuous training and education to sensitize officers and officer candidates to the needs of persons of all races and economic status who have been the victims of domestic violence and sexual assault or other violent crime.
- The Commission recommends that each law enforcement agency within the state establish, implement, and publicize a policy dealing with arrest and apprehension of individuals involved in domestic violence or violation of orders for protection. Comments from victims' groups shall be solicited and considered before any mandatory arrest policy is adopted and implemented.
- The Commission recommends that as part of a general overhaul of data privacy statutes, the law be amended to allow greater exchange of information between agencies. Law enforcement should have greater access to information involving juveniles and be able to obtain and share information with educators and social service agencies in a timely manner.
- The Commission recommends that law enforcement agencies eliminate policies and avoid actions which isolate them from the communities which they serve, so as to avoid creating barriers of distrust and isolation.

- **The Commission recommends that to the greatest extent possible, law enforcement training sessions, provided by state agencies, shall take place as close to the community as is feasible.**
- **The Commission recommends that the criminal records system maintained by the Bureau of Criminal Apprehension be modernized.**

The Commission heard substantial testimony concerning law enforcement issues. Witnesses included representatives of county and local law enforcement agencies, members of agencies who deal directly with law enforcement, and individual citizens. The Commission received both sympathetic and critical testimony regarding law enforcement activities. For the most part, testimony was given in the spirit of constructive criticism and the respectful exchange of ideas and feelings.

Testimony indicated that, like virtually all public institutions in the State of Minnesota, law enforcement agencies are being called upon to perform their duties with fewer resources. Law enforcement officers testified that due to funding difficulties, they were unable to pursue crime prevention and could only react to crimes which had already been committed. Many voiced frustration over functions which local agencies were mandated to perform but for which no funding was received, such as background checks for handgun permits and other administrative functions.

Several witnesses expressed the opinion that violence was a learned behavior. They believe it is imperative to commit more resources to those agencies and programs which seek to intervene at the earliest possible time. All law enforcement witnesses agreed that juvenile offenders were becoming increasingly more violent, but they were split on whether it was better to remove a child from the home or to work within the existing family.

Law enforcement officers also testified that data privacy laws hampered their efforts to solve crimes and to undertake prevention activities. More specifically, officers stated that, when they tried to initiate intervention on behalf of a juvenile offender with schools and/or social services agencies, they frequently found it impossible to cut through the data privacy barriers, especially given their time restrictions.

Law enforcement officers also expressed frustration over their inability to share information about juvenile offenders with other law enforcement agencies. Testimony

suggested that access to juvenile information was so restricted, that police departments could not share information about a juvenile offender with each other.

Agency representatives who gave testimony dealing with law enforcement issues consisted mostly of individuals involved with victim services organizations. Much of their testimony centered on the need for law enforcement officers to be sensitive to victims and the need for law enforcement officials to pursue aggressive apprehension and arrest policies in instances of violent crime.

Citizens who testified voiced similar concerns suggesting that police be more aggressive in apprehending violent criminals and more sensitive in dealing with victims. Many witnesses acknowledged that law enforcement could not do the job alone. Some citizen witnesses expressed concern and unhappiness over the discriminatory manner in which certain laws were enforced, and the lack of uniformity in police treatment of citizens under the law. Several witnesses cited their difficulties in communicating with law enforcement personnel.

In Grand Rapids, citizens testified that recent events had helped the community and law enforcement develop a greater respect for one another. They praised the spirit of cooperation which had recently developed between law enforcement agencies and the community.

Presently, Minnesota law allows a peace officer to arrest a fifth degree assault suspect in a domestic violence situation when the officer has probable cause to believe that a violation took place. Many chiefs and sheriffs testified that their departments or agencies had created and implemented a mandatory arrest policy in such situations. Nonetheless, testimony revealed that many individuals in those communities were not aware that such a policy existed.

The Peace Officer Standards and Training (POST) Board sets the qualification and training standards for peace officers in Minnesota. While testimony indicated that police currently receive training in relating to victims of violent and sexual assault, there was overwhelming support for increased training in those areas.

Information the Commission received from the Bureau of Criminal Apprehension indicated that the current criminal records system they maintain is out of date. It sometimes takes months before a felony conviction record is received at the Bureau of

Criminal Apprehension from the District Courts. Some criminal conviction records are never received by the Bureau of Criminal Apprehension. The entire records system, entry, maintenance, and retrieval needs to be modernized.

### Prosecution/Defense

- **The Commission recommends that the Rules of Criminal Procedure and underlying statute concerning the order of closing arguments in a criminal trial be amended to conform to the federal rule.**
- **The Commission recommends that the Rules of Criminal Procedure and underlying statute be amended so that in multi-defendant trials involving crimes against the person, the presumption shall be in favor of joint trials.**
- **The Commission recommends that supplemental funding be allotted to county attorneys' and public defenders' offices to insure that sufficient staff is available to handle cases in a timely and professional manner.**
- **The Commission recommends that every prosecutor's office be required to establish a victim/witness program. Funding to assist in creating this program shall be provided by the state. Guidelines for such programs shall be developed by the Minnesota Crime Victim/Witness Advisory Council.**
- **The Commission recommends that agencies which provide technical analysis, forensic support and expert witnesses for prosecutors should be directed to establish and implement policies which give priority to cases involving violence against persons.**
- **The Commission recommends that the designation of a defendant as a sex offender should only be removed from court and law enforcement records upon the defendant's acquittal of all charges. A plea to a lesser non-sex charge should not result in the removal of the defendant's status as a sex offender.**
- **The Commission recommends that the Attorney General's Office provide prosecution assistance to county attorneys without charge.**
- **The Commission recommends greater cooperation between federal, state and local law enforcement officers, prosecutors and corrections agents to maximize public safety.**
- **The Commission recommends that local prosecutors be encouraged to develop programs to identify and prosecute "career" criminals.**

- **The Commission recommends vigorous prosecution of existing pornography laws.**

The Commission received a wide variety of information concerning the prosecution aspects of matters handled in the criminal justice system. Substantially less testimony was heard regarding criminal defense matters. Most comments concerning criminal defense issues revealed that many people believe that a criminal defendant's rights are often superior to the rights of victims or ordinary citizens. There was an almost universal consensus that the current system provides a criminal defendant with a fair trial.

Citizens and victims were consistently dissatisfied with the length of time it takes for cases involving violent crimes to reach and move through the criminal justice system. Similar frustrations were voiced concerning the system itself. Throughout the state, individuals testified that such delays created an additional burden for the victim and delayed the start of the emotional healing process. Some testified that they reluctantly supported plea negotiations in order to get the ordeal behind them.

There was also testimony that victims would prefer to have all sanctions, including psychopathic personality commitment, finalized as quickly as possible.

Additional testimony urged that violent offenders (particularly domestic violence offenders) be brought to court as quickly as possible following the incident. The testimony revealed that the shorter the time between apprehension and sanction, the lower the recidivism rate.

Witnesses voiced concern over the quality of the communication between prosecuting attorneys and victims/witnesses. The testimony disclosed that the handling of victims/witnesses was uneven and varied widely from county to county. Many people commented that prosecuting attorneys should maintain closer contact with the victim/witness during the course of the proceedings. Some suggested keeping the victim/witness informed as to the status of the case and the custody status of the defendant. Testimony revealed the need for prosecutors to assist victims/witnesses with matters such as harassment and threats of violence by the defendant or the defendant's friends.

Testimony was heard regarding bail practices by judges. Judges and other community leaders urged that guidelines be developed to assist judges in setting bail.

Specific amounts of bail for specific crimes were not among the recommendations, however witnesses suggested that criteria be developed to be used by judges in setting bail.

Several county attorneys and judges testified about technical aspects of the criminal justice system which they believed should be changed. Recommendations they made included: changing the order of final argument to conform to the federal rule, creating a presumption for joinder of co-defendants, and revising the rules of evidence to facilitate the prosecution of violent crimes involving victims too young, too old, or unable to testify.

Statistics from the U.S. Department of Justice emphasize the result of failure to identify habitual, violent offenders. According to the Justice Department, 6% of the criminal population commits 70% of the serious crimes. The average career criminal commits an average of 3 crimes per week or 160 crimes per year. (U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, based upon a 1990 survey of 100 convicted armed career criminals.) The recent, seemingly endless parade of shocking crimes committed by repeat violent offenders has highlighted the problem of identifying and dealing with habitual violent criminals.

The current situation concerning the delay between the incident and trial varies widely across the state. The factors which affect the amount of time between arrest and trial include: the severity of the offense and the complexity of the case, the workload of prosecutors and public defenders and other defense counsel involved in the case, the court's calendar, the presence of evidence which requires technical analysis or factors which bring the defendant's mental state into question.

More specifically, caseloads which prosecutors and public defenders carry affect the time they can give to any specific case. During 1990, in Hennepin County, 41 attorneys in the Criminal Division of the County Attorney's Office handled 4,539 felonies. In Hennepin County, prosecution of gross misdemeanors and misdemeanors is largely handled by city attorneys for the communities in which the offenses take place. (Figures provided by the Hennepin County Attorney's Office.)

The situation in the Hennepin County Public Defenders Office is similar. In 1990, 71 attorneys had responsibility for 26,430 cases (3,549 felonies, 1,959 gross

16,044 misdemeanors, 4,253 juvenile delinquency, 625 juvenile welfare petitions). (The Hennepin County Public Defenders Office handles defense of misdemeanors and gross misdemeanors as well as felonies.) Since the Public Defenders Office handles approximately 80% of all felony defense in Hennepin County, their caseload has a marked impact on the ability of the criminal justice system to handle cases quickly. (Figures provided by the Hennepin County Public Defenders Office.)

The same situation exists in other counties throughout the state. In Pine County, two attorneys handled 287 criminal cases (58 felonies, 61 gross misdemeanors and 168 misdemeanors) through October 31, 1991, in addition to handling the county's civil matters. Through November 15, 1991, seven attorneys in the Stearns County Attorney's Office handled 1,206 new criminal cases (366 juvenile misdemeanors, 43 juvenile gross misdemeanors, 124 juvenile felonies, 140 misdemeanors, 212 gross misdemeanors and 321 felonies). (Figures provided by the Pine and Stearns County Attorneys' Offices.) The heavy caseloads also diminish the time and attention a prosecutor can give to victim/witnesses. In Hennepin County, a victim/witness program has been established to allow non-attorney members of the County Attorney's staff to assist in communication with and trial preparation of victims/witnesses. This sort of program, however, is not available in all counties. In Hennepin and other counties, liaison with the prosecutor's office is frequently provided by victim advocates. (Victims' service issues are dealt with in another section of this report.) However, it is safe to say that the staff levels, training and support resources for these programs also varies widely throughout the state.

It should be pointed out that scientific and forensic testing and analysis contribute to delays in prosecuting violent crimes. Although some testing requires extensive time and facilities, the most common problems center on scheduling technicians and experts to testify at trial. The fact that Minnesota's forensic labs are centralized in St. Paul creates scheduling problems.

### Judiciary

- **The Commission recommends that Judicial Districts be directed to establish and implement policies and procedures which will reduce delays in handling violent crimes against persons. These may include special calendars and priority scheduling of hearings and trials concerning violent crimes.**

- **The Commission recommends more training and education geared toward sensitizing members of the judiciary to the needs of persons of all races and economic status who come before the court as victims of domestic or sexual violence or other violent crime.**
- **The Commission recommends that judges from districts which encompass more than one county should stand for election only in the counties they serve.**
- **The Commission recommends that Minn. Stat. Sec. 609.1351 be enforced by requiring judges to indicate appropriateness of petition for civil commitment on the sentencing worksheet.**
- **The Commission recommends that Minnesota Statutes Sec. 609.152 dealing with patterned sex offenders and predatory offenders be amended by changing the word "may" to "shall". This will eliminate judicial discretion for sex offenders.**
- **The Commission recommends that the Legislature fund all judicial positions which have been authorized and fund all positions which will be created in the future.**
- **The Commission recommends that greater efforts be made to enforce and collect fines which are imposed on defendants by the court.**
- **The Commission recommends that the Legislature criminalize violations of conditional release orders for defendants pending trial.**
- **The Commission recommends that the Bureau of Criminal Apprehension Crime Lab be adequately staffed and funded to achieve efficiency in the courts.**
- **The Commission wishes to adopt by reference and incorporate the recommendations of the report of the Minnesota Supreme Court Task Force for Gender Fairness in the Courts, and the Justice System's Response to Domestic Assault Cases which was prepared by the Domestic Abuse Intervention Project, Duluth, Minnesota. Many of the recommendations of those reports have not yet been acted upon by the Legislature.**

The Commission did not hear a great deal of testimony concerning the judiciary. Much of the testimony centered around issues of sentencing, judicial accountability and the criteria used in setting bail.

With regard to issues of sentencing and sentencing guidelines, several people stated that too many downward departures are being given. An overwhelming number of

people felt that judges showed more concern for the defendant than they did for victims. (Sentencing issues are thoroughly discussed in another portion of this report.)

On the issue of accountability, many witnesses were frustrated in their belief that they had no way of influencing a judge's thinking on issues such as sentencing, bail and sensitivity to victims/witnesses. The prevalence of such feelings varied around the state.

It is difficult to describe the current situation regarding the judiciary's present role in dealing with violent crimes. (No attempt will be made to describe the structure of the judiciary, the judicial selection process or judicial involvement in the criminal justice process. For the purposes of these recommendations, the judiciary is considered to include court staff and administrators.)

Testimony did reveal, however, that many people do not have a concept of the judiciary as an institution, or of the way the judicial system operates. There seemed to be no thought that the judiciary, as an institution, could change or adopt policies which might change the way crimes of violence are handled in the criminal justice system.

Minnesota Stat. Sec. 609.1351 currently mandates that when a judge sentences a sex offender, the judge must make a determination if the offender is an appropriate candidate for psychopathic personality commitment, and if appropriate, make a referral to the county attorney. Judges routinely fail to do this. The Commission recommends this law be enforced by requiring this determination to be indicated on all sex offenders' sentencing worksheets. If the judge fails to indicate the determination, the judge will be notified by the Sentencing Guidelines Commission.

#### **Probation Officers/Parole Agents**

- **The Commission recommends that no incarcerated violent offender be released without (1) an approved and verified residency, employment and education plan, or (2) transportation to and placement in an approved residential treatment facility or halfway house.**
- **The Commission recommends that all convicted violent offenders be under supervision for a minimum of ten years supervised release after completion of the mandated prison term for the offense committed or the statutory maximum penalty for the offense, whichever is longer. The first five years shall be under intensive supervision by a Department of Corrections Agent.**

- **The Commission recommends that no violent offender receive a furlough if they have more than 90 days remaining in their period of incarceration. Exemptions shall be made in cases of furlough for recommended treatment programs. Any furloughs during incarceration for person offenders should not be granted unless (1) the victim and law enforcement authorities in the area where the release is to take place are notified at least four weeks prior to the release, and (2) the release is intensively supervised by a parole agent during the release period. A victim or law enforcement agency shall be given the right to note an objection to the furlough or furlough plan with the Commissioner of Corrections.**
- **The Commission recommends that all violent offenders, especially criminal sexual conduct offenders, be intensively supervised during their parole after serving their period of incarceration. Agents providing such supervision shall receive special training for this program and caseloads for these agents shall be kept at a minimum.**
- **The Commission recommends that no sex offender who has been determined to be amenable to treatment be released to supervised release unless he or she has successfully completed a treatment program.**
- **The Commission recommends that the Department of Corrections increase and improve its communication with local probation officers and law enforcement concerning the status of released offenders or any plans the Department has made with regard to these individuals.**
- **The Commission recommends that an independent assessment, by an agency such as the Legislative Auditors Office, evaluate the effectiveness of all sex offender treatment programs funded by the Department of Corrections. The assessment should be completed by January 1, 1993, and a formal report shall be submitted to the Legislature. All programs found to be unsuccessful shall be discontinued. Funding shall be reallocated to successful programs, victim advocacy programs, and the balance applied to the costs associated with incarceration. Until that assessment is completed, no sex offender who has been determined to be amenable to treatment shall be granted supervised release status unless he or she has successfully completed a treatment program.**

The Commission heard very little testimony regarding probation-related issues. Much of the testimony from probation officers, corrections officers and parole agents focused on "nuts and bolts" issues such as caseloads and funding. Testimony from citizens focused on treatment issues, i.e. whether it is effective and appropriate. The Commission received no suggestions regarding who should be responsible for recommending the imposition and method of treatment. No testimony was given which

focused on the issue of how the decisions to recommend treatment should be made and what sort of treatment is necessary. There was very little testimony concerning the sensitivity of probation officers with regard to victims.

As with the section on the judiciary, no attempt will be made to describe the probation/parole systems and how they relate to one another. For the purposes of this section, probation officers are considered to be those individuals who work with the court system gathering information about the defendant, the victim and the incident to enable the courts to make informed decisions when sentencing. Probation officers also supervise non-felons or offenders who have not been transferred to the jurisdiction of the Commissioner of Corrections. Further, parole agents are employed by the Commissioner of Corrections to supervise individuals transferred to the Commissioner's custody by the court as a part of their sentence.

## D. THE COMMUNITY

This section contains discussion and recommendations in the following areas:

Family  
Schools  
Public Education  
Media/TV

### Family

- **The Commission recommends that parents be encouraged and educated about the importance of creating an atmosphere of nonviolence in the family structure, and practicing nonviolent conflict resolution and gender respect.**
- **The Commission recommends that families be given greater access to programs which assist them in learning parenting skills.**
- **The Commission recommends that the family law/dissolution process be made more gender fair and less stressful. The Supreme Court and Minnesota State Bar Association should develop and implement changes in the family law hearing process.**
- **The Commission recommends that parents, as well as police departments, enforce curfews for their juvenile children.**
- **The Commission recommends that adult mentorship programs for teens be encouraged and further developed to provide positive adult role models for these children.**

The Commission heard testimony at literally every hearing that violent conduct is a learned behavior which can be prevented or unlearned. Professionals who treat violent criminal offenders testified that many of these offenders had been abused physically or psychologically themselves when they were children.

It is in that context that the role of the family becomes paramount. The Commission listened to testimony expressing many family philosophies, including:

- **Family members must be more respectful of each other. Parents must not permit put downs, name calling, and other forms of harassment within the family.**

- Television was mentioned most often as the source of unhealthy exposure to violence and sexual exploitation of females. Television desensitizes all of us, especially our children, to the devastating impact that violence has on our society.
- Parents must teach their children to resolve conflict in nonviolent ways such as negotiation, compromise, or adult intervention.
- Families must foster cooperation and not competition.
- Parents should enforce curfews for their children.

The Commission heard testimony from battered women's groups and from groups representing men who felt that they had been treated unfairly in domestic abuse proceedings. At every public hearing, witnesses testified to the severity and frequency of domestic violence in Minnesota. The Commission believes that judges must exercise great care to remain gender neutral in such proceedings, while protecting family members.

Testimony also revealed that the divorce process itself often creates stress. Many times it is the children who are caught in the crossfire of domestic violence. Dysfunctional homes and bitterly contested divorces often leave permanent scars on children and perpetuate a cycle of further violence.

The Commission believes that reform is needed in the family law process. The Commission recommends that the Legislature and State Bar Association should consider ways to make the family law process less stressful and more protective of children. Separating the child custody and visitation phase from the property distribution phase of divorce is recommended. Issues affecting children could be referred to child custody referees/arbitrators who would have authority to participate in the investigation, conduct settlement conferences, regulate discovery, and ultimately render decisions subject to trial court review.

Time and time again, the Commission heard that the family is the cornerstone of self-esteem and respect of others. We also acknowledge the diversity of family cultures and structures that exist in our state. Therefore, we encourage the state to promote and restore integrity to all types of families by assisting parents in developing their parenting skills.

The Commission heard testimony regarding excellent programs currently in place, including but not limited to: Early Childhood Family Education (ECFE), Headstart, Family Shelters, Eastside Neighborhood Services in Minneapolis, Parents Anonymous, The Children's Trust Fund, Way To Grow, Brother Peace, Peace Makers, The Domestic Abuse Project, People Against Violence (PAVE), Save Our Children Organization (SOCO), The Violence Against Women Coalition (VAWC), and many more. The Commission also heard testimony that an ombudsman for children should be created in Minnesota to assist families in finding appropriate programs, and to act as a clearing house and resource center for communities wishing to create family/parenting programs.

### Schools

- **The Commission recommends that early childhood intervention programs be adequately funded.**
- **The Commission recommends that the Legislature study and revise Minnesota Data Privacy laws which prevent educators, law enforcement officials, and health care professionals from exchanging information about children who may be experiencing violence at home or in their lives.**
- **The Commission recommends that each school district in Minnesota develop, implement, and distribute a written policy for dealing with sexual harassment.**
- **The Commission recommends that alternatives in schools be expanded to allow and encourage children with violent or abusive histories to complete their education.**
- **The Commission recommends that teachers receive additional training in domestic violence, sexual assault, incest, and child abuse, to enable them to intervene on childrens' behalf.**
- **The Commission recommends that schools teach children about child abduction and physical victimization.**
- **The Commission recommends that schools be encouraged to create an atmosphere of nonviolence and practice nonviolent conflict resolution and gender respect.**

The school is the primary institution outside of the family through which children are socialized. Therefore, schools play a vital role in shaping attitudes and values.

Schools provide the best forum for broad exposure for children from diverse family backgrounds to information which will prevent violent behavior. Education to prevent violence must be a part of the school curriculum from the early stages through the secondary level. The Commission heard testimony at every hearing that education and the shaping of attitudes was the only long-term solution to reducing violent behavior and crime.

To reverse the increasing trend and propensity toward violence in our society, we must invest our resources early in the lives of our children. We need early intervention for all children experiencing impulse and anger control problems and children struggling with learning disabilities and behavior problems in our educational system.

While we need prisons, parole officers, police, and judges, we as a society must recognize that the criminal justice system is not the cause or source of violence in our society. We must begin by asking ourselves how to train our children to resolve conflict.

Violent crime will continue to increase unless we begin now to identify and treat the sources of violent behavior. Violent behavior is learned and can be unlearned. The best solution, however, is to prevent the attitudes which lead to violence in the first place.

### Public Education

- **The Commission recommends that "Violence Free Minnesota Week" become an annual event.**
- **The Commission recommends that a "Minnesota Peace Prize" be awarded annually to that group or individual who has done exemplary work in the past year to promote violence free attitudes and behavior.**
- **The Commission recommends that the Governor's Commission on Violent Crimes continue to exist, in a smaller form. The commission would continue to study, make recommendations and to administer and coordinate "Violence Free Minnesota Week" and the "Minnesota Peace Prize".**
- **The Commission recommends that the Legislature develop standards for the State of Minnesota involving investment in, and business involvement with corporations and companies that produce, broadcast, or buy advertising on television programs or motion pictures which promote violence. Such standards would be similar to the Sullivan Principles, previously enunciated for dealing with South Africa and apartheid.**

- **The Commission recommends that worthwhile programs that deal with alcohol and drug abuse prevention be adequately funded.**
- **The Commission wishes to incorporate by reference the recommendations of the 1989 Attorney General's Task Force on the Prevention of Sexual Violence Against Women. The recommendations contained in that report were valid then, and still are today. Many of those recommendations have not been acted on in the two years since the completion of that report.**

In this past year's wake of violent tragedy, anti-violence programs were developed through efforts of concerned citizens unaware of established programs. While the concept and spirit of these programs are excellent, valuable human resources, money, and time may be lost in the process of "reinventing the wheel". Providing a central clearinghouse for anti-violence resources could be the primary purpose of a citizen-based Violent Crimes Commission. To keep a focus on the issues of violence, the commission could:

- \* Develop a long range plan for anti-violence programs that include responsibility and accountability of employers, the religious community, medical community, legal community, recreational organizations, civic and charitable organizations, educators and the media.
- \* Support efforts of existing prevention programs.
- \* Encourage the public to give of their time to prevention and nonviolent alternatives and activities.
- \* Alert and educate the public to programs available to them.
- \* Monitor relevant state programs and legislation.
- \* Continue to promote an annual violence free Minnesota campaign by spotlighting community mentorship crime prevention efforts.
- \* Assemble and distribute anti-violence ideas through a newsletter as they pertain to family, schools, religious organizations, businesses, service organizations, medical professionals, government, and the media.

Another area of concern first expressed by parents in Northfield related to violence on the football playing field. According to one witness, "If attitudes are to be changed we must include high school athletics in the scenario of anti-violence". Therefore, the continuing commission could encourage the State High School League to

study, recommend, and promulgate rules and penalties aimed at curbing violence in interscholastic athletic events for coaches, athletes, and fans. Young athletes look up to professional athletes and coaches in their performances and philosophies.

Changing people's attitudes is very difficult. As positive role models, professional athletes could promote public discussion discouraging pornography and instead highlight nonviolent resolutions such as the Minnesota Crime Prevention Specialists initiative: Turn Off The Violence (TOV). This campaign is aimed at helping young people think about all alternatives to violence.

Another example of a program that targets changing broad-based attitudes is the Illusion Theater. Combining the efforts of professional artists and prevention specialists, the Illusion Theater creates and performs statewide for children, adolescents, and adults. This award-winning program challenges attitudes that accept or minimize violent behavior. The Commission recognizes the existence of many excellent prevention programs not cited in this report. The Commission also recognizes the need for a central resource for compilation and distribution of information about such programs, and makes a recommendation about that resource later in this report.

### Media/TV

- **The Commission recommends that television editorial boards examine their method of reporting to reflect the changing attitudes about violence in our society.**
- **The Commission recommends television stations provide more public service announcements that reflect public concerns which challenge attitudes toward violence.**
- **The Commission recommends media organizations examine and revise program standards and encourage self-regulation to reduce sex and violence.**
- **The Commission recommends the establishment of standards and a rating system for TV programming, as has been done for the motion picture industry.**
- **The Commission recommends the state discontinue sponsoring advertisements during programs that promote violence.**

- **The Commission recommends and encourages the media to air non-violent programming.**

Time and time again the Commission heard testimony regarding the tremendous influences of television, cable TV, and movies. Too much of what is available in the media is inappropriate for minors. The television and film industries constantly link sexual exploitation and violence. The electronic and print media play a critical role in perpetuating attitudes which foster sexual violence. Depiction of gratuitous violence, promotion of gender inequality and racial stereotypes all perpetuate cultural norms which sustain sexual aggression.

The Attorney General's report on Violence Against Women suggests: "Even if the media are sometimes part of the problem, they can also be part of the solution. The way in which the news media treats 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".

Children are the ones most affected by violent programs. Although many parents try to guide their children's television viewing, obviously they cannot be present at all times. Efforts should be made to make available and more affordable state of the art TV sets which have the capability of canceling out certain programs.

More significantly, citizens should not permit networks to hide behind the standard rationalization: "If you don't like what we offer on your television, just turn it off." Clearly, networks need to be held accountable for their role in promoting violence in our society.

## E. FINANCE

Everywhere the Commission turned during its hearings, we encountered pleas for additional state funding for crime prevention, law enforcement, corrections efforts, and victim services. These requests came from victim groups, law enforcement agencies, community organizations, agencies devoted to education and intervention, and counties facing additional jail space needs. Sound, innovative, local programs still fail to meet the needs of children, abused women, and other crime victims because there is not enough money to staff or operate these programs properly. We also found that additional funds would be necessary to expand correctional facilities to serve our state's law enforcement polices.

In an age of cutbacks and intense scrutiny of priorities, we believe that there is objective evidence that Minnesota spends proportionately too little in combating crime. Minnesota ranks 48th among states in per capita spending on corrections, spending only approximately \$18 per capita. In 1988, Minnesota spent 16 percent less than the national average for police services and corrections. This represents the only category of public spending in which Minnesota ranked below the national average.

Although the Commission heard a number of individualized requests for funding, an overwhelming number of people expressed their belief that the State needs to reprioritize spending in general, with a greater percentage of funds being allocated to criminal justice needs and violent crime prevention. Several witnesses pointed out that the issues considered by the Commission were among the most important facing the State of Minnesota. Further, the community leaders meetings and public hearings revealed the consensus that if the cycle of violence is to be broken, more funding must be committed to violent crime prevention. In the words of one citizen who testified at the public hearing in Marshall, "We need to find the money because we are all worth it."

A large number of people testifying before the Commission indicated their willingness to pay more taxes for the prevention of violent crime. One suggestion included placing a surcharge on income tax in order to pay for additional crime-prevention services. The surcharge would be instituted for a fixed period, until the Legislature and local units of government derived a way to permanently pay for these

programs. Other suggestions included an income tax form check-off, greater use of fines imposed by the courts (with proceeds going to crime victim programs), allocation of a percentage of gambling revenues to crime prevention programs, and greater scrutiny of the present mechanism for allocating funds.

Thus, the Commission recommends that state and local spending priorities be studied and reformed to devote a greater share of government resources to crime prevention, law enforcement, corrections efforts and victim services. Increased spending for education and intervention will lessen the state's future corrections' burden. Also, additional funds for current law enforcement and corrections' efforts are needed to send a strong message that violent crime will not be tolerated in Minnesota.

## **F. FURTHER STUDY**

The Commission recommends these issues for further study:

- **The Commission recommends the study of the training requirements of city attorneys in the area of domestic violence.**
- **The Commission recommends the study of existing treatment programs in Minnesota and elsewhere to determine the efficacy of each.**
- **The Commission recommends the study of the relationship between alcohol and other drug abuse and violence and to find methods to coordinate treatment and prevention that deals with both issues.**
- **The Commission recommends the study of prevention/intervention programs and ideas that exist statewide with the purpose of creating a comprehensive resource guide.**
- **The Commission recommends the study of the use of bail in our criminal justice system.**
- **The Commission recommends the study of the relationship between pornography and sexual violence.**
- **The Commission recommends the study of constitutionally acceptable methods of dealing with pornography in our communities.**
- **The Commission recommends the study of DWI statutes to reflect the seriousness of the offense and the violence it causes.**
- **The Commission recommends that the Supreme Court study methods of increasing accountability of judges.**
- **The Commission recommends the study of various forms of oppression: racism, sexism, homophobia and other attitudes that lead to people seeking positions of dominance over other people.**
- **The Commission recommends studying the creation of a special prosecutor law to handle conflicts of interest involving the Attorney General's Office.**

Testimony indicated that city attorneys often have little or no training in the area of domestic violence. Sometimes domestic violence cases are contracted out to the

lowest bidder, with no regard to the adequacy of the attorney's training or experience. The County Attorney's Association offers training in this field, but city attorneys usually do not take advantage of the program.

Much testimony from citizens, corrections and treatment professionals and the media presented conflicting information regarding the effectiveness of treatment. Requests were made that this issue be studied so the state was not spending money on treatment programs that are ineffective. However, an interest was expressed that we continue to look for opportunities to intervene and treat offenders, if there is a possibility that their behavior can be changed.

Testimony alluded to the fact that in many cases of violent crimes, the offenders, and sometimes the victims, were under the influence of alcohol or other drugs. The question may be whether there is a cause and effect relationship between drugs and crime. Treatment methods dealing with addictions and violence may have much in common and both issues may need to be addressed simultaneously to have the desired outcome - a less violent person.

Many persons told us about excellent local programs that have produced good results. Many others expressed a desire for the coordination of efforts and exchange of ideas so they could start programs in their own communities. The time constraints of this commission precluded this worthy effort. An often expressed hope was that a comprehensive resource guide could be created and given back to communities and organizations who wish to start or enhance their own anti-violence programs.

The Commission heard that there is a great difference in the use of bail in different areas of the state. The questions to be addressed include: what is the proper use of bail, what amounts are appropriate, etc. Guidelines could be developed to answer some of those questions and be helpful to the judges who must make the final decision.

If we look at isolated tactics of oppression as unrelated, we might miss the real effects of the system. For example, if we see no relationship between sexist jokes, rape, pornography, and low-paying jobs for women, we might not see how people are in fact trapped in the system. Violence causes all people to live in fear. The existence of these forms of violence means that everyone must restrict their lives.

Conflicts of interest for local county attorney offices are handled by sending cases to another county attorney. The Attorney General is the chief law enforcement officer for the state. There is no agency available to handle conflicts of interest for the Attorney General. The legislature should consider authorizing the appointment of a special prosecutor to handle such conflicts.

## CONCLUSION

Minnesotans take great pride in the quality of life in this state. An important part of that quality is personal safety. It's a fundamental right, and a fundamental need. In the summer of 1991, citizens found that right was being taken away at an alarming rate.

The Governor's Commission on Violent Crimes was established to find ways to regain that right for all Minnesotans in a way that was free from gender or racial bias, and in a way that was totally non-political. Not everyone agreed with that approach. In fact, many people suggested it would have been far easier for the Governor to simply draft legislation himself, without the benefit of public input. To members of the Commission, that would have been short-sighted and irresponsible.

Extensive input from citizens, however, does not guarantee a perfect solution. That input is merely a beginning point, the first step in what must be a long journey. The next step must be a realization on the part of state lawmakers that effective changes cannot be made without that input. That's what makes this report so significant. It is truly a people's document.

The scope of the Commission's work was not limited to a particular form of violent crime. All types of offenses were studied, and Commission members made every effort to look at the big picture of violence in our society. This report, and the time in which it was completed, cannot truly do justice to the nature of the problem of violent crime. That is why it's important that the work of this Commission be continued into the future. These recommendations alone cannot, and will not end violence in our society.

Twenty years ago, drinking and driving was acceptable behavior. Who would have thought at that time that citizens would join together to make such dangerous and irresponsible actions unacceptable. In Minnesota, citizens are now facing a similar opportunity with violent crime. It won't happen overnight, but as with any other long journey, it must begin with a first step. This report is that step. Perhaps Governor Arne Carlson said it best when stating, "The single most important thing we can do to stop violence is to change our attitudes".