

Minnesota Department of Corrections

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| Policy: | 203.014 | Title: Minnesota Sex Offender Program DOC Site |
| Issue Date: | 10/7/14 | (MSOP-DOC Site) - Referral |
| Effective Date: | 10/21/14 | |

AUTHORITY: Minn. Stat. §§[241.67](#); [244.05 subd.1b\(b\)](#)

PURPOSE: To provide guidelines governing appropriate referrals and placements for sex offenders identified as high risk and likely to be forwarded to the county attorney for civil commitment consideration as sexual psychopathic personalities/sexually dangerous persons.

APPLICABILITY: Minnesota Department of Corrections (DOC); adult male facilities, community services, hearings and release unit (HRU), classification unit, transportation, and offenders in adult male correctional facilities who have sex-related offenses

POLICY: Offenders with sex-related offenses may be referred to the Minnesota Sex Offender Program - Department of Corrections' site (MSOP-DOC site) as a means to reduce their risk to the general public. An offender's failure to comply with programming directives results in discipline charges for which an aggravated extended incarceration penalty may be imposed as stated in Policy 303.010, "Offender Discipline," Offender Discipline Regulations (attached).

DEFINITIONS:

Actuarial instrument – reports an individual's statistical risk based upon identified group characteristics correlated with sexual recidivism.

Aggravated extended incarceration - referral offenders who fail to cooperate or participate in the MSOP-DOC site program receive discipline charges which can lead to an aggravated penalty.

Minnesota Sex Offender Screening Tool-3.1.2 (MnSOST-3.1.2) and STATIC-99R,– actuarial tools designed to statistically predict an offender's risk for sexual re-offense based upon group characteristics.

Minnesota Sex Offender Program (MSOP) – MSOP has the following three sites.

MSOP - Moose Lake site - MSOP programming located in the Department of Human Services (DHS) facility at Moose Lake, Minnesota.

MSOP - St. Peter site - MSOP programming located in the DHS facility at St. Peter, Minnesota.

MSOP - DOC site - MSOP programming located in the Minnesota correctional facility at Moose Lake, Minnesota.

MSOP-DOCs site-referral committee - committee established to identify and direct into treatment sex offenders who meet the DOC criteria as a MSOP-DOC site referral. The committee members include such examples as the risk assessment supervisor for the risk assessment/community notification (RA/CN) unit and two assessors from the RA/CN unit.

MSOP-DOC site referral –

A. An offender who:

1. Has engaged in a course of harmful sexual conduct; and
2. Is likely to engage in acts of harmful sexual conduct.

Course of harmful sexual conduct – two or more incidents of harmful sexual conduct. The conduct need not consist only of convictions, but may also include conduct for which the offender was not convicted. (*In re Jackson*, 658 N.W.2d 219, 226 (Minn. App. 2003)), *review denied* (Minn. May 20, 2003).

Likely to engage in acts of harmful sexual conduct – determined by actuarial tool scores as directed below. This policy provides instruction on the use of additional risk factors and protective factors.

B. The following procedures use two actuarial tool scores (MnSOST-3.1.2 and STATIC 99R). Deviation from this guideline may occur when the committee identified factors in the case that warrant deviation from the action normally associated with the actuarial scores.

1. Actuarial score cut points:

| | MnSOST-3.1 | STATIC 99R |
|-----------------|----------------------------------|-------------------|
| High Scores | Percentile rank 87% or higher | 6 or above |
| Moderate Scores | Percentile rank 61% - 86% | 2 to 5 |
| Low Scores | Percentile rank 60% or below | -3 to 1 |

Referral guideline for MnSOST-3.1.2 and STATIC 99R actuarial scores

| | | |
|----------------------------|-------|--------------------------------------|
| Both actuarial scores high | . | Refer |
| | | Protective factors may be considered |
| One moderate score | . . . | Review for idiosyncratic factors |
| Each low scores | . . . | Review for idiosyncratic factors |

2. Idiosyncratic factors considered by the committee in addition to actuarial tool scores include the following:

- a) In some cases the likelihood of re-offense may appear low or moderate, but the offense history includes severe violence or extraordinary harm;
- b) Offender has expressed intent to reoffend;
- c) Sexual deviancy (sexual interest in children, non-consensual sex);
- d) Chronic sexual preoccupation;
- e) General antisocial orientation (antisocial personality disorder, high Psychopathy Check List – Revised (PCL-R) score);
- f) Antisocial traits (general self-regulation problems, impulsivity, recklessness, pro-criminal attitudes);
- g) History of rule violations (non-compliance with supervision, violation of conditional release); and
- h) Other salient characteristics:
 - (1) Attitudes tolerant of sexual offending;
 - (2) Emotional identification with children;
 - (3) Lack of community support;
 - (4) Returning to environment similar to environment where sexual offenses occurred; and
 - (5) Community treatment failures or lack of entry into community treatment.

3. Protective factors
 - a) Documented intervention followed by or in conjunction with a period of six years or more, during which the offender did not re-offend or engage in high risk behavior and had access to potential victims.
 - b) Offender has developed an incapacitating illness or physical condition that decreases motivation or ability to sexually re-offend (example: later stages of a terminal illness).
 - c) Treatment completion without reoffense or high risk behaviors for three years during which the offender had access to potential victims.

Predatory offender – an offender subject to registration under Minn. Stat. §243.166 or §243.167.

Sex offender – an offender who is subject to Predatory Offender Registration (excluding those with no sex offense) or an offender with a history of sex related offenses.

Sex offender treatment tracking system (SOTT) – a database that tracks the status of sex offender treatment referrals to all DOC sex offender treatment programs from intake to participation/completion and their outcomes.

Sex offense – convictions, charges, arrests, self-report, and those allegations resulting in some form of intervention indicating a professional determination the allegations were substantiated by credible evidence.

PROCEDURES:

- A. Identification of MSOP-DOC site referrals
 1. Initial screening
 - a) The RA/CN unit produces a report from the corrections operations management system (COMS) data identifying sex offenders admitted within the past 30 days.
 - b) Within 60 days of offender admission to a DOC facility, an assessor from the RA/CN unit conducts an initial screen on each offender that includes completion of actuarial tools (MnSOST-3.1.2 and STATIC-99R) and a detailed file review.
 - c) When the assessor does not identify the offender for further review as a MSOP-DOC site referral, the assessor prepares a memo noting the offender has been reviewed and determined not to meet department criteria as a MSOP-DOC site referral. This memo is forwarded to the offender's casemanager for distribution to the offender and placement in the offender's base file. The assessor enters the decision into COMS and SOTT.
 - d) When the assessor identifies an offender for further review as a MSOP-DOC site referral, the assessor forwards the offender's name to the MSOP-DOC site referral committee and, if needed, requests from the records unit at the offender's facility that a review packet be sent to the referral committee.
 2. MSOP-DOC site referral committee

- a) The MSOP-DOC site referral committee convenes and makes a determination whether an offender meets the criteria for placement in the MSOP-DOC site program. Once a determination has been made, a staff member from the RA/CN unit prepares a memo noting the committee's decision. This memo is sent to the case manager and SOTT coordinator. The case manager distributes a copy of this memo to the offender and to the base file. If the decision is to not refer, the MSOP-DOC site referral committee, if appropriate, recommends the offender to participate in alternative DOC sex offender programming. In cases when the file information is insufficient to make a determination, the MSOP-DOC site referral committee requests a MSOP-DOC site referral report be completed by an RA/CN unit assessor. All actions taken by the referral committee are determined by majority vote. All decisions are documented in COMS and SOTT.
 - b) When the MSOP-DOC site referral committee determines a report from a RA/CN assessor is required.
 - 1) A staff member from the RA/CN unit sends an e-mail to the case manager with an attached memo to the offender explaining the process. The case manager gives the memo to the offender.
 - 2) A RA/CN unit assessor conducts an interview with the offender, if the offender consents.
 - 3) The facility provides an appropriate interview room upon the request of the assessor.
 - 4) The RA/CN unit assessor produces a MSOP-DOC site referral report utilizing the information obtained from a file review, offender interview, collateral information from other sources, actuarial scores, or other instruments, as appropriate.
 - c) Once a MSOP-DOC site referral report has been completed, the MSOP-DOC site referral committee convenes and makes a determination as to whether the offender noted in the report meets the criteria for placement in the MSOP-DOC site program. Once a determination has been made, the steps outlined in Procedure A.2.a) are followed.
3. Release returnees
- a) Release returnees are screened by the RA/CN unit risk assessment supervisor. If the offender is directed by HRU to complete sex offender treatment or receive a treatment assessment, the risk assessment supervisor/designee determines if review by the MSOP-DOC site referral committee is appropriate.
 - (1) When the offender is determined to be appropriate for review by the MSOP-DOC site referral committee, steps outlined in Procedure A.2.a) through c) are followed. This decision is recorded in COMS and SOTT.
 - (2) When the offender is determined to not be appropriate for review by the MSOP-DOC site referral committee, then general sex offender treatment programming, or no programming, is recommended. This decision is recorded in COMS and SOTT.

- b) Release returnees who are already civilly committed as either sexually dangerous person (SDP) or sexually psychopathic personality (SPP) are not reviewed for or referred to the MSOP-DOC site program.
 4. Offenders sentenced under the Patterned and Predatory Sex Offender Statute (Minn. Stat. § 609.108) are automatically designated as appropriate for the MSOP-DOC site program.
 5. Predatory offenders sentenced to an indeterminate sentence are reviewed by the MSOP-DOC site referral committee.
 6. A DOC staff member may refer an offender to the MSOP-DOC site referral committee at any time during an offender's incarceration when information becomes available that indicates a need for assessment or reassessment.
 7. When an offender previously forwarded to the county attorney by the DOC for civil commitment consideration under Minn. Stat. § 244.05, subd.7, defined as a sexually dangerous person/sexual psychopathic personality and a subsequent petition was not filed or the court dismissed the petition, the offender is not qualified for a MSOP-DOC site referral. An exception is made when new information suggests that the offender's risk for sexual re-offense has increased and indicates intensive treatment may be warranted.
- B. Refusal to participate/treatment failures
1. When an offender is identified as a MSOP-DOC site referral and refuses to participate or cooperate in treatment/programming at MSOP-DOC site or is terminated from treatment once in the program, the offender is subject to discipline and aggravated extended incarceration in accordance with Offender Discipline Regulations. Aggravated extended incarceration does not relieve the offender of the obligation of participating in treatment and the referral process continues based upon program availability.
 2. Aggravated extended incarceration is applied only to MSOP-DOC site referred offenders who refuse or fail the MSOP-DOC site program. Enhanced sanctions must not be applied when a MSOP-DOC site referred offender has failed other programming directives, (examples: chemical dependency treatment or DOC sex offender treatment at Minnesota Correctional Facility-Lino Lakes (MCF-LL) or Minnesota Correctional Facility-Rush City (MCF-RC)).

INTERNAL CONTROLS:

- A. Reviews and decisions regarding sex offenders identified in a COMS subscription following admission are documented in COMS and SOTT and a memo is retained in the offender's base file.
- B. All determinations by the RA/CN assessor and site-referral committee are documented in COMS and SOTT and a memo is retained in the offender's base file.

REVIEW: Annually

REFERENCES: [Policy 303.010, "Offender Discipline"](#)
[Policy 205.200, "Sex Offender Civil Commitment Determination"](#)
[Policy 106.140, "Evidentiary Hearings"](#)
[Policy 203.010, "Case Management Process"](#)

SUPERSESION: Policy 203.014, “Minnesota Sex Offender Program (MSOP)-Referral,” Issued 2/13/12.
All facility policies, memorandums, or other communications whether verbal, written or transmitted by electronic means regarding this topic.

ATTACHMENTS: [MSOP-DOC site interview memo](#) (203.014A)
[Offender Discipline Regulations](#) (303.010I)

/s/
Deputy Commissioner, Community Services

Deputy Commissioner; Facility Services