



PERFORMANCE AUDIT REPORT

Larned State Hospital:
Reviewing the Growth in the Sexual Predator Program

Executive Summary *with Conclusions and Recommendations*

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
April 2005

Legislative Post Audit Committee

Legislative Division of Post Audit

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April 25, 2005

To: Members of the Kansas Legislature

This executive summary contains the findings and conclusions, together with a summary of our recommendations and the agency responses, from our completed performance audit, Larned State Hospital: Reviewing the Growth in the Sexual Predator Treatment Program.

The report also contains several appendices containing information about the number of sex offenders assessed for commitment to the Sexual Predator Treatment Program since fiscal year 2000, the number of residents in each phase of the Treatment Program as of February 10, 2005 and whether they were making adequate progress, and a table which summarizes the treatments provided in a sexual predator treatment program.

The report includes two recommendations. One calls for the Sexual Predator Treatment Program to be studied further during the 2005 interim. The other calls for SRS to develop forecasts for resident capacity, housing costs, and staffing costs. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

If you would like a copy of the full audit report, please call our office and we will send you one right away.

A handwritten signature in black ink that reads "Barbara J. Hinton". The signature is written in a cursive, flowing style.

Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY
LEGISLATIVE DIVISION OF POST AUDIT

Overview of the Sexual Predator Treatment Program

The 1993 rape and murder of a Pittsburg State University student by a sex offender who had been released from prison about seven months earlier prompted the Legislature to adopt the Sexually Violent Predator Act. The Act created a separate involuntary civil commitment for the long-term control, care, and treatment of sexual predators after they had completed their prison sentences. In 1997, the U.S. Supreme Court ruled that Kansas' law was constitutional.

There's a rigorous process for determining whether a sex offender should be committed to the Sexual Predator Treatment Program. Once committed, sexual predators are housed in a residential setting on the grounds of Larned State Hospital. When they've progressed through 5 of the 7 treatment phases of the Program, they are transferred to Osawatomie State Hospital for transition services. The goal of the Program is to minimize the likelihood that sexual predators will re-offend after their release.

Question 1: What Factors Have Contributed to the Rapid Growth In the Sexual Predator Treatment Program at Larned State Hospital?

Since 1998, the number of residents in the Sexual Predator Treatment Program (Program) has increased from 16 to 136. *After the U.S. Supreme Court ruled the law was constitutional in mid-1997, the Program began to grow rapidly. Most of the sex offenders in the Program have been diagnosed as pedophiles.*page 7

The Program is growing so fast because more sex offenders are being committed, and few are leaving. *Even though the number of "eligible" sex offenders about to be released from prison has dropped since fiscal year 2000, the percent of eligible offenders committed to the Program increased from 3% in fiscal year 2000 to a peak of 11% in 2003. In fiscal year 2000, an average of 1.3 offenders entered the Program each month. During the first seven months of fiscal year 2005, that average was 2.7.*page 8

The decision to commit a sex offender to the Sexual Predator Treatment Program is carried out in several stages. Between 2000 and 2004, the people involved in two of those stages had determined that significantly more of the sex offenders they reviewed should be considered for commitment:

- in the initial stage, the multi-disciplinary team that reviews all eligible sex offenders about to be released from prison had rated 41% of those offenders as “high risk for re-offending” in fiscal year 2003, up from 31% in 2000.
- in the stage right before an offender is actually committed to the Program, Larned Hospital staff determined that 94% of the offenders referred to them in fiscal year 2004 had “sexual predator” tendencies, up from just 39% in fiscal year 2000.

For fiscal year 2005 to-date, these percentages had all dropped off sharply, which should result in a drop in the number of sex offenders actually committed to the Sexual Predator Treatment Program that year. However, the resident population will continue to grow because so few residents are being released from the Sexual Predator Treatment Program.

**Figure I-3
Number of Sex Offenders Assessed for Commitment
To the Sexual Predator Treatment Program
Fiscal Years 2000-2005 (through December 2004)**

Fiscal Year	# of Sex Offenders Released from Prison and Reviewed for Commitment	# of Sex Offenders Committed to the Program	% of Released Sex Offenders Who Were Committed
2000	467	15	3%
2001	361	14	4%
2002	360	26	7%
2003	305	32	11%
2004	330	19 (a)	6%
2005 (b)	162 (b)	3 (b)	2%
Total	1,985	109	5.5%

(a) At the time of this audit, seven additional offenders had trials pending to determine whether they would be committed. If all seven are committed to the Program, the percentage of eligible offenders from fiscal year 2004 who were committed would increase to 8%.

(b) For the first half of fiscal year 2005, final determinations have been made for all but one offender, whose case was pending a commitment trial. If this offender is committed to the Program, the percentage of eligible offenders from the first half of fiscal year 2005 who were committed would remain at 2%. Based on Department of Corrections data, we estimate 282 sex offenders will be reviewed for commitment during fiscal year 2005.

Source: LPA analysis of commitment process data provided by the Kansas Department of Corrections.

Although some residents were released early on because of a legal ruling and six have died, so far only one resident has been discharged for successfully completing the treatment program, and only two others have achieved conditional release. Here’s why:

- the Program is designed to provide long-term treatment that should last about seven years for willing and active participants. Most residents haven’t been in the Program long enough to complete it
- many residents aren’t progressing through the Program’s different phases on a timely basis
- Program officials estimate one-third of all residents won’t complete the Program because they lack the motivation, discipline, or mental capacity, or have severe mental problems

Based on current data, we estimate the Program’s maximum population could increase significantly before it levels off. Assuming that two-thirds of Program residents actually leave the Program after seven years, we conservatively estimated the Program could increase by 100 residents over the next 10 years, and over the next several decades could grow to 384 residents before the number of residents leaving the Program equaled the number entering the Program. If less optimistic assumptions are used, the resident population could grow as high as 850 residents before leveling off.

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Officials think completing sex offender treatment programs in prison doesn’t have any impact on residents’ progress in the Sexual Predator Treatment Program. Of the 156 sex offenders who have been

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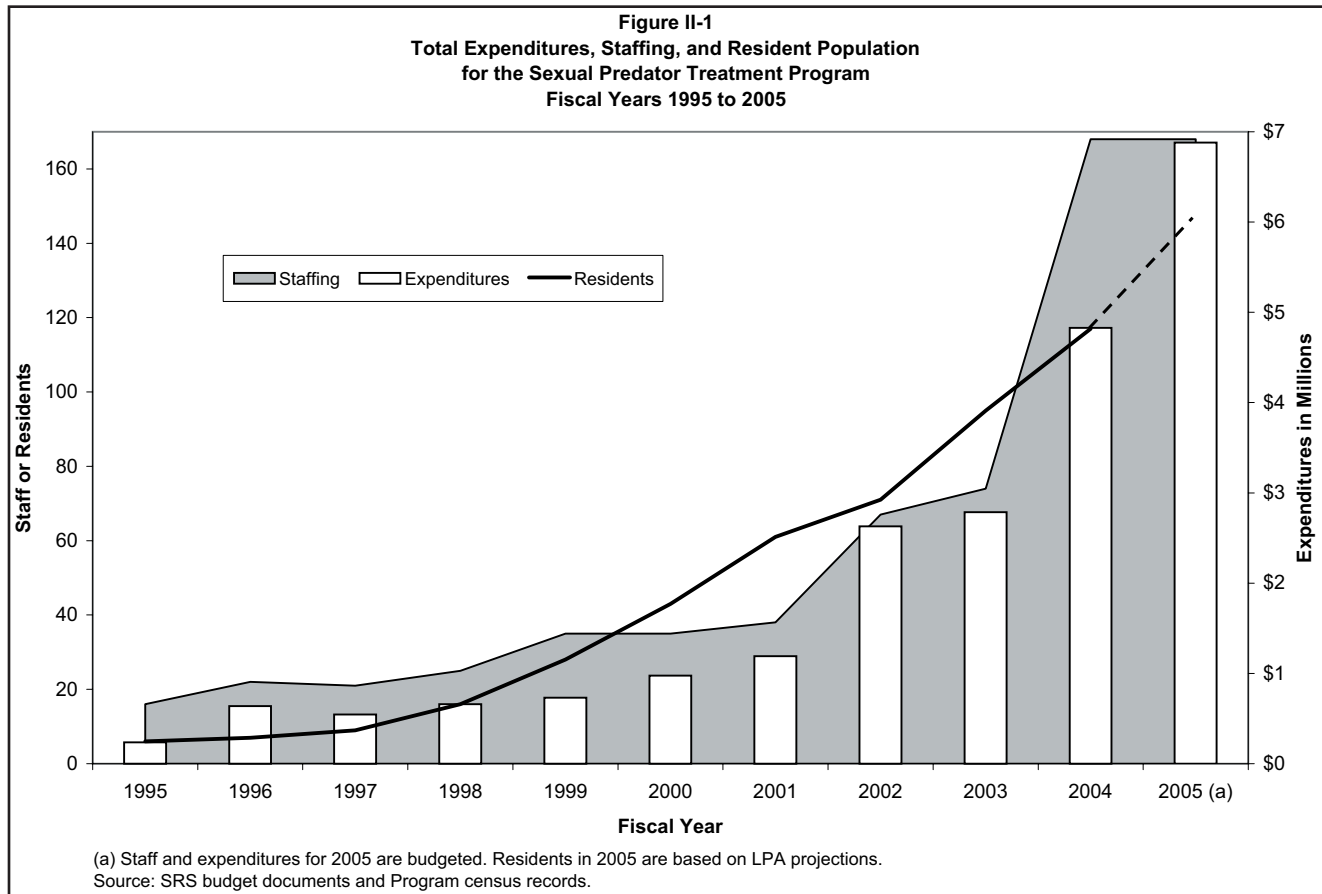
sent to the Sexual Predator Treatment Program, 53% successfully completed the Department of Corrections' sex offender treatment program while they were in prison.

Program officials told us that completion of the treatment program in prison generally has no impact on—and shouldn't be used as an indicator of—how well a resident will progress in the Sexual Predator Treatment Program. To complete the prison program, an offender only has to demonstrate a desire to change. To complete the Sexual Predator Treatment Program, residents have to demonstrate that they have changed and can control their thought processes.

Question 2: How Have Staffing and Funding Resources for the Sexual Predator Treatment Program Changed Over Time, and How Does Kansas Compare to Other States?

Between fiscal years 2001 and 2005 to-date, staffing and funding for the Program skyrocketed, as the number of residents climbed. Since fiscal year 2001, Program costs have increased about 480%. During that same period, staffing levels increased by 342%, and the number of residents in the Program increased by 144%. No standards exist for how to staff a sexual predator treatment program, but the current staffing plan for the Larned State Hospital portion of the Program calls for slightly more than one clinical staff person per resident.

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The Program’s budget request for fiscal year 2006 may be significantly understated. *At the rate of growth in new commitments to the Program that SRS has used (three per month), the Program would need to add about 40 new clinical staff positions during fiscal year 2006 to maintain current clinical staff-to-resident ratios. If commitments total just two new residents per month, about 28 new clinical staff would be needed. Funding 28 new positions would cost about \$840,000.*

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If the resident population continues to grow as it has, this same situation could be repeated each year for many more years. SRS officials told us they haven’t developed a cost and staffing plan beyond the budget submitted for fiscal year 2006.

Kansas’ staffing levels and operating costs seem reasonable compared to other states. *In 2004, 16 states had civil commitment laws and sexual predator treatment programs. We surveyed six of them. Because of variations in how these states operate their programs and in who they count as a program resident, any comparisons should be viewed only as general indicators. Kansas’ costs for providing treatment services were the lowest among the states we surveyed, and its staffing ratio fell in the middle.*

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Kansas’ Sexual Predator Treatment Program is similar to other states in some areas, but more stringent in others. *In general, the comparison states have similar criteria for defining a sexual predator, use a civil commitment procedure for committing sex offenders to a treatment program, and rely on group and individual therapy—as well as development of a relapse-prevention plan—to help residents identify ways to control their behavior.*

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On the other hand, although most states share the goal of minimizing repeat sexual offenses, Kansas’ Program requires residents’ risk level for re-offending to be reduced to “practically nil” before they can be released. Both Wisconsin and Illinois appear to have less stringent standards, and have released significantly more offenders from their sexual predator treatment programs than Kansas has.

Also unlike other states, Kansas requires residents to complete treatment before being released. Other states have released residents because they made progress toward, but did not complete, the treatment program.

Unless Kansas is willing to accept a higher level of risk of re-offense, few options exist to curb the growth of the Program. *SRS officials have identified two options for moving some residents out of the Program more quickly: transferring medically frail residents to nursing homes, and establishing a community containment model for residents in the transition phases of the Program.*

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Other options we identified for limiting the growth of the Program include reducing the number of sex offenders who are eligible, allowing

sexual predators whose risk levels have dropped to be released, and providing more treatment to sex offenders who have sexual predator tendencies while they are in prison. These and other options would need to be explored further.

Conclusion. *In 1994, State policymakers decided that in order to adequately protect citizens from sexual predators, it was necessary to place those offenders in treatment after the completion of their prison sentences, until such time as they could be returned safely to society. Initially the Program grew slowly, and the costs were relatively low. However, the Program's population is bulging because of increases in both the number of sex offenders committed and the length of time they spend in the Program. If current trends continue, Program census and costs will be much greater in the years to come. It appears Kansas will either have to change its policies so that it commits fewer sex offenders to the Program or allows those in the Program to be released sooner, or it will have to reconcile itself to supporting a new class of institutionalized individuals.* page 24

Recommendations. *To help ensure that the Legislature is fully aware of the costs for continuing the Program as it exists today, and the implications of making changes to the Program's entrance and exit criteria, we recommended the Legislative Post Audit Committee request a study of the Program during the 2005 interim to review the Program's entrance and exit criteria, its goal of "no new victims," and its future needs and costs for staffing, treatment, and housing for residents under current operating procedures. To ensure the Legislature has sufficient information on which to base its decisions, we recommended that SRS develop a multi-year forecast addressing such issues as resident capacity and housing and staffing costs. If an interim study is not authorized, SRS should submit this information to the appropriate legislative committees during the 2006 legislative session.* page 24

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This audit was conducted by Joe Lawhon, Lisa Hoopes, Brad Hoff, Felany Opiso, and Amy Thompson. Cindy Lash was the audit manager. If you need any additional information about the audit's findings, please contact Mr. Lawhon at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.