

---

# Background

## CHAPTER 1

---

**I**n 1841, a Boston cobbler named John Augustus went to court to stand bail for a man charged with drunkenness. The court required the defendant to return in three weeks, during which time Augustus provided him with assistance. When the defendant returned to court, the judge was impressed by his improvement and chose not to incarcerate him. Over the next 18 years, Augustus "bailed on probation" nearly 2,000 persons that he thought were capable of improvement, and he helped many of them find jobs or enroll in education. Augustus is usually credited with originating the concept of probation in the United States.

Since Augustus' time, probation and other forms of community-based supervision have become important parts of the criminal justice systems of all 50 states. Minnesota's courts place about 80 percent of convicted adult felons on probation rather than sending them to prison, and they place large percentages of other offenders on probation, too. While many courts still expect probation services to help rehabilitate offenders, the courts have increasingly viewed probation services as a means of monitoring and punishing offenders, and as a way to provide help to crime victims. We asked:

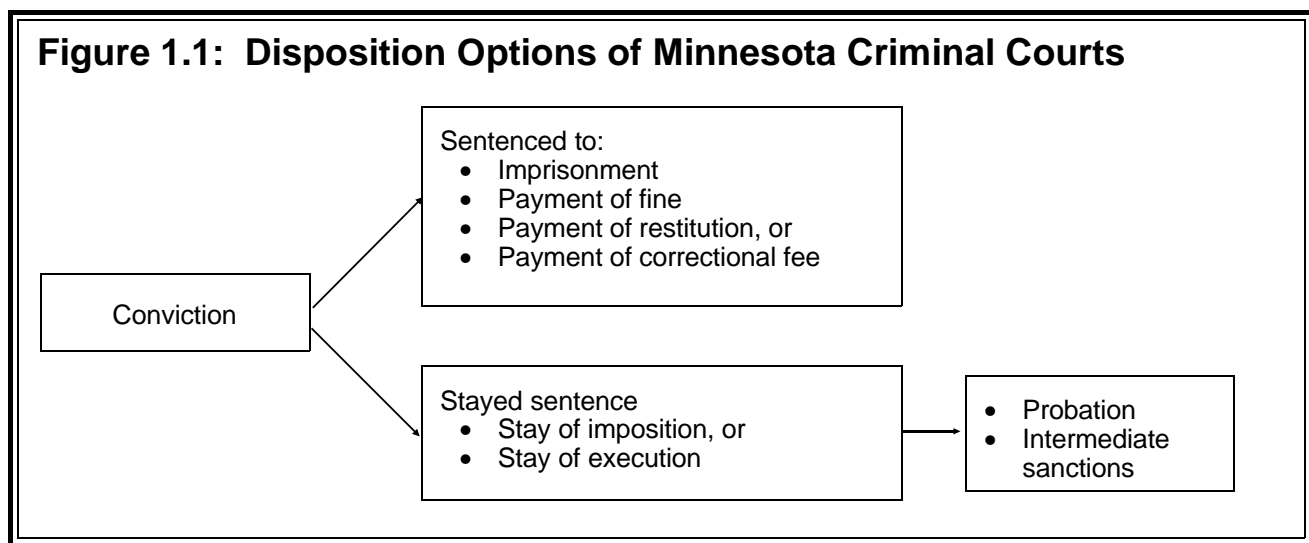
- **What role does community-based supervision play in Minnesota's criminal justice system, and how does Minnesota's reliance on probation compare with other states?**
- **What is the purpose of probation?**
- **How are probation services organized and funded in Minnesota, and to what extent does state spending for probation vary throughout Minnesota?**
- **What have recent task forces recommended about state funding for probation services?**

We found that Minnesota has more offenders on probation per capita than all but four states. This partly reflects Minnesota's traditional reliance on community-based supervision to serve the vast majority of offenders. In addition, growth in the number of misdemeanants and gross misdemeanants on probation during the past decade has significantly increased Minnesota's total probation population.

Minnesota has a complex probation system, with more than 40 agencies administering probation services. There is a mix of state and county service providers--in fact, both provide probation services in more than one-third of Minnesota counties, and the division of their responsibilities is not clearly drawn in state law. There are several methods by which state probation funds are allocated to service providers, and two recent task forces have recommended that Minnesota adopt a uniform funding approach.

## MINNESOTA'S USE OF COMMUNITY SUPERVISION

Minnesota's criminal code (*Minn. Stat.* §609) defines various crimes, sets maximum sentences that may be imposed by the courts for these crimes, and outlines post-conviction procedures for the courts. As shown in Figure 1.1, persons convicted of crimes may be sentenced to imprisonment, payment of a fine, payment of restitution, payment of a local correctional fee, or combinations of these.



Alternatively, the court has the option for most crimes to stay the sentence.<sup>1</sup> If the sentence is stayed, the court may "place the defendant on probation with or without supervision and on the terms the court prescribes."<sup>2</sup> The terms of probation may include fines and up to one year of incarceration in a local jail. The court's other option for stayed sentences is to impose "intermediate sanctions" on the offenders. According to statute, intermediate sanctions include but are not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, "sentencing to service" programs, attendance at a day reporting center, treatment or counseling, restitution, fines, and community work service. The law states that intermediate sanctions should be ordered "where

<sup>1</sup> Stays may not be granted for those offenses with a mandatory sentence of life imprisonment or with mandatory minimum sentences required by *Minn. Stat.* §609.11.

<sup>2</sup> *Minn. Stat.* §609.135, Subd. 1.

**Offenders given stayed sentences may be placed on probation.**

practicable" in cases involving stayed sentences that do not include incarceration as a condition of the stay.<sup>3</sup>

The courts may grant persons placed on probation one of two types of stays: a "stay of imposition" or a "stay of execution." If the court stays imposition of the sentence of a convicted felon or gross misdemeanor and the defendant subsequently completes probation without being sentenced, the conviction will be considered a misdemeanor for civil purposes.<sup>4</sup> Some courts issue stays of imposition so that offenders who stay out of trouble with the law will not have to report felonies on their records when applying for jobs, for example. According to the Minnesota Sentencing Guidelines Commission, "stays of imposition are a less severe sanction and ought to be used for those convicted of less serious offenses and those with short criminal histories."<sup>5</sup>

As shown in Table 1.1, there is considerable variation among judicial districts in the use of the two types of stays for convicted adult felons. For example, in the first judicial district (which includes Carver, Dakota, Goodhue, LeSueur, McLeod, Scott, and Sibley counties), stays of imposition outnumbered stays of execution by more than 10 to 1 in 1993. In contrast, stays of execution outnumbered stays of imposition in the second district (Ramsey County), fourth district (Hennepin County), and sixth district (northeastern Minnesota).

**Table 1.1: Types of Dispositions Ordered in Minnesota Felony Convictions, 1993**

Judicial District	Stays of Imposition	Stays of Execution	Sentence Imposed Without Stay	Total Dispositions
First	643	62	160	865
Second	529	615	353	1,497
Third	427	138	108	673
Fourth	686	923	680	2,289
Fifth	368	77	84	529
Sixth	205	239	97	541
Seventh	537	252	176	965
Eighth	96	86	52	234
Ninth	490	161	143	794
Tenth	659	369	222	1,250
Total	4,640 (48.1%)	2,922 (30.3%)	2,075 (21.5%)	9,637 (100.0%)

Source: Program Evaluation Division analysis of data provided by Minnesota Sentencing Guidelines Commission.

<sup>3</sup> *Minn. Stat.* §609.135, Subd. 1, 6.

<sup>4</sup> *Minn. Stat.* §609.13, Subd. 1 (2). If the person is sentenced for a new offense while on probation, the original offense will be considered a felony or gross misdemeanor, not a misdemeanor.

<sup>5</sup> Minnesota Sentencing Guidelines Commission, *Minnesota Sentencing Guidelines and Commentary* (St. Paul, August 1, 1994), 35.

For juveniles who are adjudicated by Minnesota courts, probation is one of several disposition options provided for in state law.<sup>6</sup> Juveniles are not "sentenced" by the courts, so there are no stayed sentences as there are with adults.

As of December 1994, there were 81,972 adults and 15,346 juveniles on probation in Minnesota as a result of court orders.<sup>7</sup> Not everyone on probation has regular contact with a probation officer. For example, some offenders on probation are required to pay restitution but are not expected to meet with probation officers regularly. Also, it is common for probation officers to meet regularly with offenders during the months following sentencing but then to reduce or even eliminate contacts with offenders over time.

---

**Minnesota's  
rate of  
probation use  
for adults  
exceeds the  
national  
average.**

In 1994, Minnesota had 2,461 adults on probation per 100,000 adult residents, compared to a national rate of 1,540 adult probationers per 100,000 adult residents. Minnesota's rate was exceeded only by those of Texas (3,017), Delaware (2,920), Washington (2,832), and Georgia (2,725).<sup>8</sup> Minnesota's relatively high use of probation reflects, to some extent, the state's historical preference for placing offenders under community-based correctional supervision when possible, rather than incarcerating them in state prisons. One of the principles of Minnesota's system of sentencing guidelines, implemented in 1980, is that "sanctions used in sentencing convicted felons should be the least restrictive necessary to achieve the purposes of the sentence."<sup>9</sup> Minnesota's incarceration rate of 92 prisoners per 100,000 population was the second lowest of any state in 1993.<sup>10</sup>

During each of the past 15 years, about 20 percent of Minnesota's convicted felons have been sentenced to incarceration in a state prison, and the remaining 80 percent have remained in the community.<sup>11</sup> Nearly all convicted felons who were not sent to prison in 1993 were assigned to probation, for periods of time ranging up to 40 years, and most were incarcerated in local jails for up to one year.<sup>12</sup>

Since 1984, the Minnesota Department of Corrections has surveyed state and local probation offices to determine the number of offenders on probation at the end of each year.<sup>13</sup> As shown in Figure 1.2,

<sup>6</sup> *Minn. Stat.* §260.185, 260.191, 260.193, and 260.195.

<sup>7</sup> Minnesota Department of Corrections, *1994 Probation Survey* (St. Paul, May 8, 1995), 67. There is an undetermined amount of duplication in this count. The department instructs each probation agency to report a given offender only once on the survey, but offenders who have been placed on probation in more than one jurisdiction are double-counted.

<sup>8</sup> Bureau of Justice Statistics, *The Nation's Correctional Population Tops Five Million* (Washington, D.C.: U.S. Department of Justice, August 27, 1995), 5.

<sup>9</sup> Minnesota Sentencing Guidelines Commission, *Minnesota Sentencing Guidelines and Commentary* (St. Paul, August 1, 1994), 1. The sentencing guidelines replaced an indeterminate sentencing system where releases from state prisons were determined by a parole board.

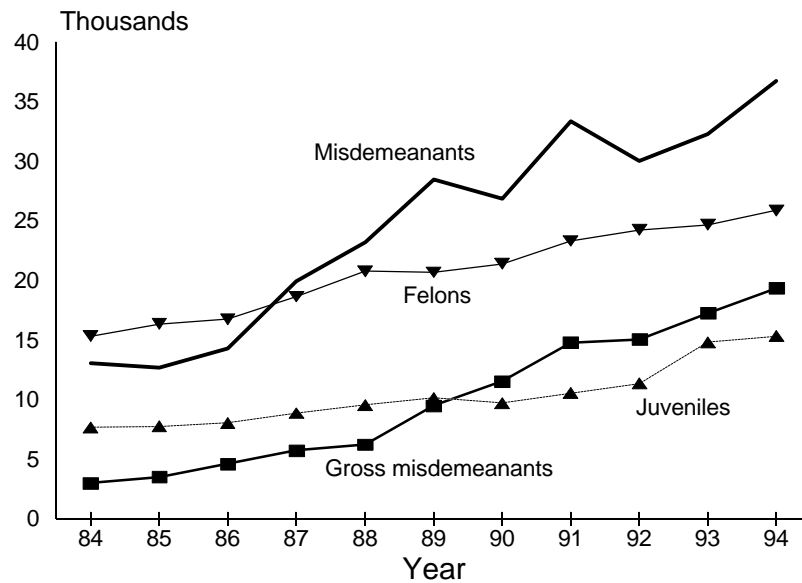
<sup>10</sup> Bureau of Justice Statistics, *Correctional Populations in the United States, 1993* (Washington, D.C.: U.S. Department of Justice, October 1995), 95.

<sup>11</sup> Between 1978 and 1993, the percentage of felons incarcerated in state prisons has been between 18 and 22 percent every year except for 1981, when 15 percent went to prison.

<sup>12</sup> Of nearly 10,000 convicted felons sentenced in 1993, a total of 33 received stayed sentences of 30 years or longer; three of these had stayed sentences of 40 years. The length of stayed sentences may not exceed the maximum sentences set for various offenses in state law.

**There has been especially large growth in the number of misdemeanants and gross misdemeanants on probation.**

**Figure 1.2: Number of Persons on Probation in Minnesota, 1984-94**



Source: Minnesota Department of Corrections annual probation survey.

- **The number of adult offenders on probation in Minnesota for misdemeanors and gross misdemeanors grew more rapidly in the past decade than the number of felons on probation.**

The total number of adult felons on probation grew by 69 percent between 1984 and 1994, compared with an increase of 248 percent among the combined population of adult misdemeanants and gross misdemeanants. These increases were larger than increases in the number of arrests during the same period. During the 1984-94 period, Minnesota arrests of adults for "serious" offenses (commonly called "Part I" offenses) increased 22 percent, and arrests of adults for other offenses increased 49 percent.

The number of juveniles on probation in Minnesota increased 100 percent between 1984 and 1994. During this period, the number of juveniles apprehended for all offenses increased 79 percent.<sup>14</sup>

While persons given stayed sentences comprise the vast majority of offenders under community supervision, probation officers also supervise persons who have

<sup>13</sup> State and local officials cautioned us that the reliability of information gathered from service providers in the probation survey has been questionable, and we discuss some of these issues in Chapter 3. Service providers think that the accuracy of the survey has probably increased over time as instructions have become clearer and more service providers have computerized their records. We think the survey results, at a minimum, provide some indication of general trends in probation caseloads.

<sup>14</sup> There is no statewide information collected in the annual probation survey on the seriousness of offenses for which juveniles have been placed on probation. However, juvenile arrests for serious (Part I) offenses increased 41 percent between 1984 and 1994, and arrests for other offenses increased 113 percent.

---

**Offenders on parole or supervised release from prison represent a relatively small part of community supervision caseloads statewide.**

been released from state prisons. In Minnesota, certain state and county probation agents are responsible for offenders on "conditional release" from state prisons, including parolees and offenders on "supervised release."

Offenders sentenced to prison for crimes committed before May 1, 1980 may be released on parole by the Commissioner of Corrections.<sup>15</sup> But, since implementation of Minnesota's sentencing guidelines more than 15 years ago, parolees have represented a diminishing part of the caseloads of probation officers in Minnesota. As of December 1994, there were 336 adult parolees under supervision in Minnesota, or about 0.3 percent of all adjudicated or convicted persons under supervision by probation officers. The Commissioner may discharge a person from parole when satisfied that (1) the person is reliable and trustworthy, (2) the person will remain at liberty without violating the law, and (3) the discharge is not incompatible with the welfare of society.<sup>16</sup> In addition, there were 283 juveniles released from Minnesota's state-operated facilities at Red Wing and Sauk Centre who were under parole supervision in December 1994.

Offenders sent to prison since May 1980 have served a "term of imprisonment" followed by a period of "supervised release" in the community. Offenders whose crimes occurred after August 1, 1993 serve two-thirds of their sentences in prison (plus additional time if confined for disciplinary reasons while in prison).<sup>17</sup> Offenders whose crimes occurred before August 1993 can have their terms of imprisonment reduced by one day for each two days in which they complied with prison rules. As of December 1994, there were 1,158 persons on supervised release in Minnesota, or 1.2 percent of all convicted or adjudicated persons under supervision by probation officers.<sup>18</sup> Many offenders released from prison are supervised as part of the regular probation caseloads of state or county probation agents, who determine the appropriate levels of monitoring or contact. However, five counties and four of the Department of Corrections' nine district offices operate state-funded "intensive supervised release" programs, and the Commissioner of Corrections may order inmates who are being released in these parts of Minnesota to be placed on intensive levels of supervision for all or part of their supervised release terms.<sup>19</sup>

As of December 1994, there were 39 adults on parole and supervised release from prison in Minnesota per 100,000 adult population, which was much lower than the

---

<sup>15</sup> Felons in Minnesota used to receive indeterminate sentences, bounded by statutory minimum and maximum sentence lengths for various offenses. Parole boards determined the appropriateness of releasing offenders before the statutory maximum periods had expired. In 1978, the Legislature passed a law establishing sentencing guidelines for felons. The guidelines established presumptive, fixed sentences based on offenders' conviction offenses and criminal histories.

<sup>16</sup> *Minn. Stat.* §243.05, Subd. 3.

<sup>17</sup> *Minn. Stat.* §244.01, §244.05.

<sup>18</sup> There were an additional 152 offenders who were under conditional community supervision as participants in the intensive community supervision program (*Minn. Stat.* §§244.12-244.15) and challenge incarceration program (*Minn. Stat.* §§244.17-244.173).

<sup>19</sup> *Minn. Stat.* §244.05, Subd. 6, §§244.12-244.25.

rate for the nation as a whole (359).<sup>20</sup> In part, this reflects Minnesota's relatively small prison population. However, the total number of persons on some form of community supervision--including probation, parole, and supervised release--was substantially higher in Minnesota (2,500 per 100,000 adult population) than in the nation as a whole (1,899).

## PURPOSE OF PROBATION

Nationally, there is longstanding debate among corrections professionals about whether probation should primarily aim for (1) rehabilitation and community reintegration of the offender, or (2) the control and surveillance of offenders, and enforcement of their terms of probation. Although the enforcement role has become increasingly prominent over the past 20 years in probation offices nationwide, there continue to be many strong advocates for a rehabilitative purpose.<sup>21</sup>

As noted previously, the portion of Minnesota state law that establishes probation as a disposition option for the courts is the criminal code. The code's stated purposes are:

- (1) To protect the public safety and welfare by preventing the commission of crime through the deterring effect of the sentences authorized, the rehabilitation of those convicted, and their confinement when the public safety and interest requires; and
- (2) To protect the individual against the misuse of the criminal law by fairly defining the acts and omissions prohibited, authorizing sentences reasonably related to the conduct and character of the convicted person, and prescribing fair and reasonable postconviction procedures.<sup>22</sup>

---

**The term  
"probation" is  
not defined in  
Minnesota law.**

However,

- **Minnesota's criminal code does not define the term "probation," nor does it establish goals for probation services apart from the code's general purposes (stated above).**

Although the criminal code does not set forth explicit goals for probation services, two other portions of Minnesota law provide some further indication of the pur-

---

<sup>20</sup> Bureau of Justice Statistics, *The Nation's Correctional Population Tops Five Million*, 6. Minnesota's rate was based on the number of adults under supervision in Minnesota, as reported in the Department of Corrections' annual probation survey. The Minnesota rate included adults who had moved to Minnesota from other states, and it does not include Minnesotans who were on parole or supervised release in other states. The Minnesota rate includes offenders in the intensive community supervision program.

<sup>21</sup> For recent useful discussions of the goals of probation, see: Todd R. Clear and Edward J. Latessa, "Probation Officers' Roles in Intensive Supervision: Surveillance Versus Treatment," *Justice Quarterly* (September 1993), 441-462; Richard Lawrence, "Reexamining Community Corrections Models," *Crime and Delinquency* (October 1991), 449-464; and Thomas Ellsworth, "Identify the Actual and Preferred Goals of Adult Probation," *Federal Probation* (June 1990), 10-15.

<sup>22</sup> *Minn. Stat.* §609.01, Subd. 1.

pose of probation. One is *Minn. Stat.* §260.311, which governed probation officers in all 87 counties prior to 1973 and still governs officers in 56 counties.<sup>23</sup> Figure 1.3 outlines the duties of probation agents that are identified in this law. Most of the prescribed duties require probation officers to carry out the wishes of the courts or the Commissioner of Corrections. However, officers are also required to initiate programs that will prevent delinquency and crime, and to rehabilitate offenders "who are properly subject to efforts to accomplish prevention and rehabilitation."

In addition, Minnesota law sets forth explicit goals for the state's two "intensive probation" programs. The programs started in 1990 with funding from the Minnesota Legislature and the federal government, and they operate only in certain parts of the state. The Legislature established one program to provide intensive community supervision of certain offenders who would otherwise go to prison. It established the other program to provide close supervision for certain offenders

### **Figure 1.3: Duties of County Probation Officers, *Minn. Stat.* §260.311**

County probation officers serving a district court shall:

- Act under the orders of the court in reference to any person committed to their care by the court;
- Make investigations with regard to any person as may be required by the court before, during, or after the trial or hearing, and furnish the court with information and assistance as may be required;
- Take charge of any person before, during, or after a trial or hearing when directed by the court;
- Keep records and reports ordered by the court;
- Provide probation and parole services to wards of the Commissioner of Corrections who live in the counties they serve, and carry out orders of the Commissioner related to these wards;
- Initiate programs for the welfare of persons coming within the court's jurisdiction to prevent delinquency and crime, and rehabilitate within the community persons under the court's jurisdiction who are properly subject to efforts to accomplish prevention and rehabilitation;
- Cooperate with law enforcement agencies, schools, public and private child welfare agencies, and other groups concerned with the prevention of crime and delinquency and the rehabilitation of persons convicted of crime and delinquency; and
- Make monthly and annual reports to the Commissioner of Corrections regarding cases (juvenile), offenses, adjudications, dispositions, and related matters required by the Commissioner.

Source: *Minn. Stat.* §260.311, Subd. 3.

<sup>23</sup> The 1973 Legislature passed the Community Corrections Act, which allows participating counties to "take over state and local correctional services presently provided in counties." "Local correctional services" are defined as services authorized by *Minn. Stat.* §260.311, Subd. 1. See *Minn. Stat.* §401.01 and §401.04.



---

## Probation serves multiple goals.

released from prison who might represent risks to the public. The law states that the Commissioner of Corrections shall administer the programs to advance the following goals:

- (1) To punish the offender;
- (2) To protect the safety of the public;
- (3) To facilitate employment of the offender during the intensive community supervision and afterward; and
- (4) To require the payment of restitution ordered by the court to compensate the victims of the offender's crime.<sup>24</sup>

The intensive probation programs serve a very small percentage of the total population of offenders who are being supervised in the community, but the programs' goals are clearer than those in law for other types of probation.<sup>25</sup>

A statewide probation task force established by the 1993 Legislature recently said that the focus of probation in Minnesota has shifted toward "punishment and surveillance as opposed to an earlier emphasis upon rehabilitation and treatment."<sup>26</sup> The task force adopted a definition of probation services and a statement of goals that encompassed the multiple purposes of probation:

Probation is a court-ordered sanction imposed upon an offender for a period of supervision no greater than that set by statute. It is imposed either as an alternative to confinement or in conjunction with confinement and/or special conditions (intermediate sanctions). The imposed conditions are intended to manage offender risk and need through the supervision of a probation officer.

The objectives of probation are: deterring further criminal behavior, punishment by the state, reparation to crime victims and communities, and assisting in the offender's rehabilitation efforts for the purposes of enhancing public safety.<sup>27</sup>

Courts and service providers in Minnesota have considerable latitude to determine the purpose and conditions of probation for individual offenders, and the type of probation that offenders receive in one county may differ from the type they would receive elsewhere. This is consistent with Minnesota's historical preferences for locally developed community corrections programs and an independent judicial branch. However, the varying goals and practices of probation offices in Minnesota complicate the task of establishing a statewide method of allocating probation funds to reflect staff workloads. For example, a probation office with a goal of helping to rehabilitate juveniles on probation might approach its work in a

---

<sup>24</sup> *Minn. Stat.* §244.14, Subd. 1.

<sup>25</sup> In addition, a grant program that pays for intensive probation for repeat DWI offenders has a statutory goal of protecting public safety (*Minn. Stat.* §169.1265).

<sup>26</sup> Probation Standards Task Force, *Probation in Minnesota: Putting the Pieces Together* (St. Paul, December 1994), 6.

<sup>27</sup> Probation Standards Task Force, *Probation in Minnesota*, 13.

very different manner than an office that has a goal of ensuring that the juveniles comply with the specific conditions of their probation.

## ORGANIZATION AND FUNDING OF MINNESOTA PROBATION SERVICES

### History

---

**Probation services in Minnesota started nearly 100 years ago.**

Probation services have a long history in Minnesota, beginning with services for **juvenile** offenders nearly a century ago. In 1899, the Minnesota Legislature required the appointment of juvenile probation officers in counties with populations over 50,000.<sup>28</sup> In 1905, the Legislature created the state's first juvenile courts and gave them authority to appoint "persons of good character" to serve as probation officers.<sup>29</sup> Over the years, not all county boards chose to fund probation officers, so the 1945 Legislature authorized county **welfare** boards to provide and pay for probation services if requested by a judge.<sup>30</sup> In 1959, the Legislature required each Minnesota county to provide juvenile probation services using one of the following options:

- The district court could appoint, with approval of the county board, probation officers "to serve during the pleasure of the court;"
- Two or more county boards could agree to share probation officers, as appointed by their courts; or
- A county could request the "youth conservation commission" (amended to Commissioner of Corrections in 1969) to provide probation services.<sup>31</sup>

The 1959 Legislature also established a subsidy program for all counties providing juvenile probation and parole services under these service delivery options. In 1965, the Legislature changed the state reimbursement from 10 cents per county resident to 50 percent of costs.<sup>32</sup>

There is also a long history of community supervision of **adult** offenders in Minnesota, both by county and state employees. Minnesota law first authorized the appointment of "state agents" in 1889 to supervise and assist persons discharged from state prisons.<sup>33</sup> In 1909, the Legislature authorized criminal courts to sus-

---

<sup>28</sup> *Minn. Laws* (1899), Ch. 154.

<sup>29</sup> *Minn. Laws* (1905), Ch. 285, Sec. 6.

<sup>30</sup> *Minn. Laws* (1945), Ch. 517, Sec. 4.

<sup>31</sup> *Minn. Laws* (1959), Ch. 698, Sec. 3. In counties with populations over 100,000, the court was required to appoint probation officers, so these options for service delivery did not apply.

<sup>32</sup> *Minn. Laws* (1965), Ch. 697, Sec. 1. This was amended by *Minn. Laws* (1977), Ch. 392, Sec. 8, which limited reimbursement to up to 50 percent of probation officer salaries.

<sup>33</sup> *Minn. Laws* (1889), Ch. 256, Sec. 23.

pend sentences in certain cases and place the offenders on probation. The law authorized the courts to place these persons "under the supervision of a probation officer in counties where such officer is provided by law, and in other counties under the supervision of some discreet person who will accept such supervision and serve without pay, making report to the court as required."<sup>34</sup> Minnesota law first authorized the use of "state agents" for supervision of adult probationers in 1945.<sup>35</sup> When the Legislature created the Minnesota Department of Corrections in 1959, it authorized the department to hire agents through the state civil service "when deemed necessary" for the purpose of supervising adult parolees and probationers.<sup>36</sup>

Until 1973, counties received all state probation funding in the form of probation officer salary reimbursements, in accordance with *Minn. Stat.* §260.311. The 1973 Legislature allowed counties to select an alternative way of receiving state funding for their community corrections programs, including probation and other services. The Legislature passed the Community Corrections Act (CCA) "for the purpose of more effectively protecting society and to promote efficiency and economy in the delivery of correctional services."<sup>37</sup> The act authorized the Commissioner of Corrections to make block grants to counties (or groups of contiguous counties) for community correctional services, including services previously delivered in those counties by the Department of Corrections. To qualify for CCA funding, counties were required to establish a corrections advisory board, designate an administrative officer, and prepare a comprehensive plan for correctional services that was approved by the Commissioner of Corrections.

## Current Organization

---

**Minnesota has a complicated system of community supervision.**

Minnesota's system of probation, supervised release, and parole services is complicated and sometimes confusing. In fact, a recent review of state probation practices singled out Minnesota and three other states as having "particularly complex combinations of responsibility for probation services."<sup>38</sup> In 35 of 50 states, **adult** probation services are provided exclusively by state agencies in the executive or judicial branches of government, and local governmental units are the exclusive service providers in another 8 states. State agencies are the exclusive providers of **juvenile** probation services in 27 states, and local governmental units are the exclusive service providers in 17 states.<sup>39</sup>

Each Minnesota county is in one of the following three categories, based on the way that its probation services are organized and funded:

---

<sup>34</sup> *Minn. Laws* (1909), Ch. 391, Sec. 1, 2.

<sup>35</sup> *Minn. Laws* (1945), Ch. 258, Sec. 1 added probationers to the jurisdiction of the State Board of Parole, although it did not clearly specify which offenders were the board's responsibility

<sup>36</sup> *Minn. Laws* (1959), Ch. 263, Sec. 6.

<sup>37</sup> *Minn. Laws* (1973), Ch. 354, Sec. 1.

<sup>38</sup> LIS, Incorporated, *State and Local Probation Systems in the United States: A Survey of Current Practice* (Washington, D.C.: National Institute of Corrections, July 30, 1993), 7. The other states were Pennsylvania, Ohio, and Oregon.

<sup>39</sup> Based on Program Evaluation Division phone calls to probation administrators in all 50 states.

---

**A combination of state and county employees provide probation services in Minnesota.**

- Community Corrections Act counties:** Thirty-one counties, representing 71 percent of the state's population, participate in the Minnesota Community Corrections Act (CCA) and provide probation and supervised release services to all of their adult and juvenile probationers. They pay for community corrections services primarily with a combination of state CCA block grants and county funds. Counties have considerable flexibility to determine the types of services that will be provided to offenders, subject to the Commissioner of Corrections' approval of their comprehensive CCA plans. The law requires the judiciary to be represented on the advisory boards established by CCA counties, but it does not specify a more direct role for the courts in supervising probation officers or other community corrections staff.<sup>40</sup>
- Counties that contract with the Minnesota Department of Corrections:** In 24 counties representing 9 percent of Minnesota's population, the Department of Corrections provides all probation and supervised release services. Counties purchase probation for juveniles and adult misdemeanants from the department and are eligible for reimbursement for half of the salaries of the department's probation officers.<sup>41</sup> The department's services to adult felons in these counties are fully funded by its biennial state appropriation.
- County Probation Officer (CPO)-Department of Corrections (DOC) counties:** Thirty-two counties, representing 19 percent of the state's population, have systems in which probation responsibilities are divided between county and state employees. County probation staff serve juveniles and adult misdemeanants, and the counties receive reimbursement for half of their probation officer salaries under *Minn. Stat.* §260.311. In many cases, staff hiring and termination decisions rest with the court, rather than with the county administration.<sup>42</sup> The Department of Corrections provides probation and supervised release services to adult felons in these counties, and its probation officers are fully funded by the department's biennial state appropriation. In this report, we will refer to these counties as County Probation Officer/DOC counties.

Figure 1.4 shows the counties that are in each of these three categories. There are instances in each category where two or more counties provide probation services through a consolidated office. Statewide, there are 16 Community Corrections

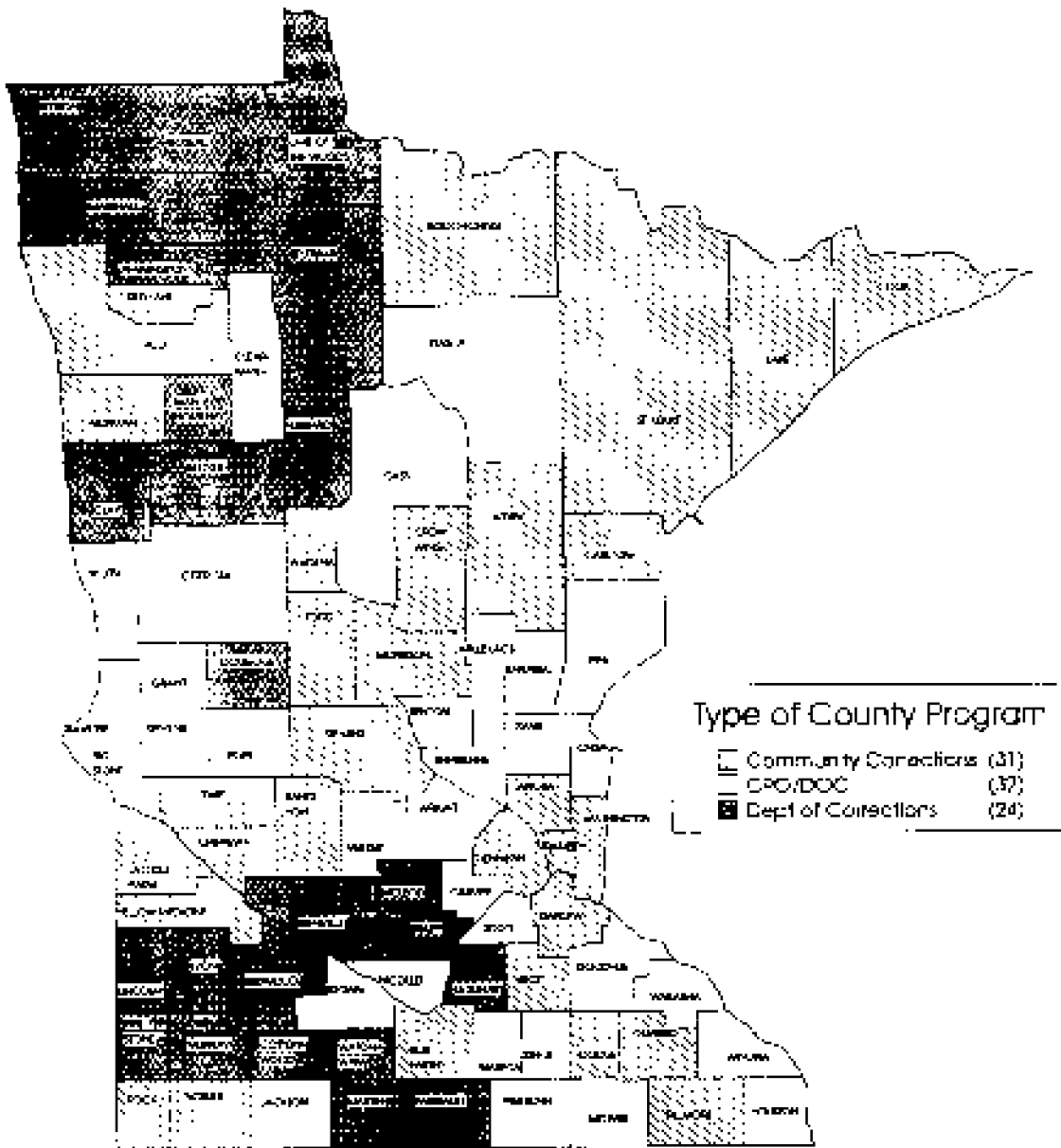
---

<sup>40</sup> In 1982, the Minnesota Supreme Court voided the firing of a probation officer by a judge in a CCA county, holding that the authority to discharge employees was established in the employment and collective bargaining agreements that existed between the officer and his employer (the Arrowhead Regional Corrections Board). See *Arrowhead Regional Corrections Board v. The Honorable Robert S. Graff*, 321 N.W.2d 53.

<sup>41</sup> Contract agents are paid for by the Department of Corrections' community services appropriation, and counties are billed for these costs. Counties can then obtain state reimbursement for 50 percent of the probation officer salaries.

<sup>42</sup> In counties that have human services boards pursuant to *Minn. Stat.* Ch. 402, and in counties with populations over 200,000 that have not organized pursuant to this chapter, the district courts are authorized by law to hire probation officers, and *Minn. Stat.* 260.311, Subd. 1, does not require approval of these actions by county boards. In other counties governed by *Minn. Stat.* 260.311, the court may appoint probation officers "with the approval of the county boards."

**Figure 1.4: Categories of Probation Service Providers, by County**



Source: Minnesota Department of Corrections.

---

## Forty-two separate agencies administer probation services in Minnesota.

Act administrative agencies, 9 Department of Corrections district offices, and 25 probation agencies that administer the county portion of services in the County Probation Officer/DOC counties. Thus, even if the Department of Corrections is viewed as a single service provider, there are still 42 separate agencies that administer probation services in Minnesota. Each agency--sometimes in consultation with the judges its serves--establishes its own service delivery policies and practices.<sup>43</sup> As a result, there can be variations in the frequency and type of contact between offenders and their probation officers, depending on which agency administers the service.<sup>44</sup>

In 56 counties, the Department of Corrections provides probation services to adult felons, and services to juveniles and adult misdemeanants in these counties are provided by county probation officers or contracted Department of Corrections officers. However, we found that:

- **State law is unclear about the division of responsibilities between state and county probation offices and the manner in which services provided by the state and counties should be funded.**

First, the statute under which non-CCA counties currently provide and receive reimbursement for probation services to **adult** misdemeanants (as well as juveniles) is part of the state's **juvenile** code (*Minn. Stat.* §260), and this is a source of some confusion. The 1971 Legislature amended the probation portion of this law (*Minn. Stat.* §260.311) to replace the term "children" and "child" with "persons" and "person." The Legislature also replaced the term "juvenile courts" with "county courts" in 1971 when it created these new courts to handle cases involving juveniles as well as those involving adult misdemeanants. These changes might have indicated a desire by the 1971 Legislature to expand the scope of the previous juvenile probation law, making it apply to adult offenders as well. However, because this law is still in the juvenile code, some people we spoke with questioned whether the counties' responsibility for adult probation services is adequately established in law.<sup>45</sup>

Second, the law does not indicate which service providers--state or county--are responsible for probation services for gross misdemeanor offenders in County Probation Officer/DOC counties, and practices vary around the state. For example, judges have assigned most gross misdemeanor cases to the Department of Corrections in the neighboring counties of Pine, Isanti, Chisago, and Kanabec. In contrast, county probation officers supervise all gross misdemeanants in Mower

---

<sup>43</sup> Agencies follow Department of Corrections policies and procedures for offenders on supervised release.

<sup>44</sup> There are guidelines in law regarding intensive probation and supervised release programs that are funded by state grants. For example, the law specifies minimum lengths for these programs plus minimum requirements for contacts with probation officers, drug testing, and employment.

<sup>45</sup> Some persons we spoke with thought that the 1971 Legislature may have applied the provisions of *Minn. Stat.* §260.311 to county courts (which assumed responsibilities for juvenile matters) without intending to make counties responsible for misdemeanor probation. However, for many years the Department of Corrections has administered state reimbursement for county probation services by providing reimbursement for adult misdemeanor officers as well as juvenile officers.

---

## Responsibility for some probation services is not clearly defined in state law.

County.<sup>46</sup> The Department of Corrections' statewide supervisor for field services estimated that department staff have primary responsibility for gross misdemeanants in about half of the 32 County Probation Officer/DOC counties. In some cases, the department and judges have had differing views about who should have responsibility for gross misdemeanor probation. As the Legislature considers ways to allocate new probation funds to better reflect workloads, it may need to clarify whether a county's probation allocation should be divided among state and county service providers based on their respective workloads. The Legislature may also wish to consider whether the law should assign responsibility for gross misdemeanor probation in non-CCA counties in a consistent way statewide, rather than leaving this to the discretion of the courts.

Third, the law does not specify that the Department of Corrections should have exclusive responsibility for providing probation services for adult felons in non-CCA counties.<sup>47</sup> In practice, the department is the sole provider of probation for adults convicted of felonies in non-CCA counties, and it funds these services through its biennial appropriation. However, if *Minn. Stat.* 260.311 can be interpreted as giving counties the option of choosing the service providers for adult misdemeanor as well as juvenile probation (and receiving funding for both), then it could be interpreted as giving counties the option of deciding who should deliver felony probation services, too. This law originally governed probation services provided to juvenile courts, but subsequent amendments applied this law to county courts (which were responsible for juvenile and adult misdemeanor cases) and later district courts (which have responsibility for all juvenile and criminal cases).<sup>48</sup>

For the most part, questions about the division of responsibilities between state and county service providers have been resolved informally and amicably throughout Minnesota. We did not study whether probation services are provided more effectively by the state or by counties, and this report offers no recommendations for changes in the current state-local arrangements for providing probation services. However, to provide a clearer basis in law for allocations of probation funds in coming years, we suggest in Chapter 3 that the law may need clearer guidelines about which jurisdictions should receive the funds, and how funds should be divided in those counties where both state and county employees provide probation services.

## State Funding

Probation services in Minnesota are paid for mainly with state and county funds. We estimate that \$20.5 million in state funds and at least \$34 million in county

---

<sup>46</sup> This is through a negotiated agreement between Mower County and the DOC. Mower County staff provide services to all gross misdemeanants and produce all bail evaluations for offenders in the county, including evaluations needed by DOC.

<sup>47</sup> The law authorizes the Commissioner of Corrections to supervise adults placed on probation or parole "as far as possible" (*Minn. Stat.* §243.05, Subd. 6). However, *Minn. Stat.* §260.311, Subd. 1 and §609.135, Subd. 1 authorize the department to provide services only when requested by counties or if services are not otherwise provided.

<sup>48</sup> *Minn. Laws* (1971), Ch. 951, Sec. 41-43. The 1971 Legislature created "county courts" in all counties except Hennepin, Ramsey, and St. Louis, and it gave them jurisdiction for juvenile and misdemeanor cases, among others.

---

**There are four primary ways the state allocates funds for probation services.**

funds were spent on probation services in 1995.<sup>49</sup> There are four primary ways in which service providers receive state funding for probation services:

- **Salary reimbursements.** In calendar year 1995, the Department of Corrections allocated about \$3.0 million to 56 non-CCA counties to pay for 50 percent of the cost of the salaries of probation officers serving juveniles and adult misdemeanants. This included reimbursements paid to 24 counties for the cost of paying Department of Corrections officers to provide probation services.<sup>50</sup>
- **CCA block grants.** In calendar year 1995, the Department of Corrections allocated about \$28.9 million to CCA counties for community correctional services, including probation for adult and juvenile offenders, detention and incarceration, and other services. In the most recent year for which data were available (1994), state funds accounted for 19.1 percent of correctional spending in CCA counties statewide, ranging from 11.9 percent in Hennepin County to 78.6 percent in Rock/Nobles counties. County funds accounted for another 74.2 percent of spending statewide, but this ranged from 18.4 percent in Rock/Nobles counties to 87.1 percent in Hennepin County.

"Field services" (that is, probation and supervised release) accounted for about 34 percent of CCA counties' correctional expenditures statewide in 1994. This ranged from 16 percent in Tri-County Community Corrections (Polk, Norman, and Red Lake counties) to 70 percent in Rock/Nobles counties. Based on the assumption that each CCA county spent the same percentage of its state CCA block grants for probation and supervised release services in 1995 that it did in 1994, we estimated that the state contributed a total of \$10.5 million in 1995 toward probation and supervised release services through this form of funding.<sup>51</sup>

- **Department of Corrections appropriation:** The department pays for 100 percent of the cost of its adult felony probation officers in non-CCA counties using its state appropriation for community correctional services. In fiscal year 1995, the department spent \$5.5 million for adult felony supervision.<sup>52</sup>
- **Caseload reduction grants:** The Legislature appropriated \$1.5 million in fiscal year 1995, \$5.0 million in 1996, and \$9.1 million in 1997 to help service providers reduce their caseloads. In fiscal year 1996, this funding

---

<sup>49</sup> The estimate of county spending does not include certain non-personnel and administrative costs.

<sup>50</sup> Based on total probation salary reimbursements and total population in these 56 counties, the reimbursements amounted to \$2.29 per capita.

<sup>51</sup> Across the 31 counties, the estimated total probation expenditures funded by state CCA grants divided by total CCA counties' population resulted in per capita expenditures of \$3.27.

<sup>52</sup> Across these 56 counties, the total spending for felony supervision divided by the total population of these counties resulted in per capita spending of \$4.20. These expenditures (and the "field services" expenditures shown in Table 1.2) do not include those for services in DOC contract counties that were initially paid for from the department's state appropriation but were later charged to counties.



is being allocated statewide to counties based on the current CCA funding formula in state law. Service providers are not required to provide matching funds for these grants.

Table 1.2 provides an estimate of the 1995 state-funded probation spending (and per capita spending) for probation and supervised release in each Minnesota county. For each CCA county, we estimated state-funded probation spending by assuming that the county spent a proportion of its total 1995 CCA grant on "field services" that was equivalent to field services' 1994 percentage of the county's total correctional spending. Although there are considerable variations in per capita spending among counties, we estimated that:

- **Community Corrections Act counties--as a group--spent fewer state funds per capita (\$3.59) for probation services in 1995 than service providers in non-CCA counties--as a group (\$6.83).**

---

**There are differences in state-funded probation spending between CCA and non-CCA counties.**

Unlike non-CCA counties, CCA counties do not receive a "fixed" amount of state funding for probation services. Block grants provide CCA counties with some flexibility to increase or decrease the portion of their state grants devoted to probation services. In our view, however, it is noteworthy that CCA counties--which include many of the areas in Minnesota that have disproportionately high levels of violent crime--have had relatively low levels of state-funded probation expenditures per capita. This may be one of the reasons that the 1995 Legislature asked us to recommend ways of allocating probation funds that reflect the actual workloads of service providers and the risk of the offenders they supervise.

In our view, the spending differences largely reflect the varying methods used to provide state funding to CCA and non-CCA counties. For example, probation services for adult felons are entirely funded by the state in non-CCA counties, but these services are paid for with a combination of state and county funds in CCA counties.

Table 1.2 does not include state grants for "intensive probation" services that the Department of Corrections made in 1995 to five counties (Hennepin, Ramsey, Anoka, Washington, and Dakota) and four of its nine district offices (St. Cloud, Albert Lea, North Mankato, and Bemidji). The grants, which totalled \$1.6 million in fiscal year 1996, fund two programs in each location. The Intensive Community Supervision program diverts low-risk offenders into the community rather than sending them to prison. The Intensive Supervised Release program provides high levels of supervision for selected offenders being released from prison. State law requires the programs to have no more than an average of 15 offenders per agent.<sup>53</sup>

---

<sup>53</sup> *Minn. Stat.* §244.13, Subd. 2.

**Table 1.2 Estimated State-Funded Probation Expenditures by County, 1995**

County Name	Estimated CY 1995 Expenditures for Field Services Funded by CCA Grants	CY 1995 Probation Officer Salary Reimbursement	Estimated FY 1995 DOC Field Services Expenditures	FY 1995 Adult Felony Caseload Grants	Estimated Total State Funding Calendar Year 1995	Estimated State Funding Per Capita
<b>CCA Counties</b>						
Aitkin	\$52,745	\$0	\$0	\$4,707	\$57,452	\$4.77
Anoka	744,358	0	0	91,838	836,196	3.16
Blue Earth	288,594	0	0	19,787	308,381	5.78
Carlton	122,986	0	0	11,299	134,285	4.61
Chippewa	73,761	0	0	4,599	78,360	6.22
Cook	15,095	0	0	1,388	16,483	4.34
Crow Wing	161,982	0	0	14,430	176,412	3.89
Dakota	928,804	0	0	80,506	1,009,310	3.22
Dodge	33,088	0	0	5,623	38,711	2.39
Fillmore	40,865	0	0	6,930	47,795	2.34
Hennepin	2,574,214	0	0	306,562	2,880,776	2.68
Kandiyohi	163,716	0	0	13,341	177,057	4.45
Koochiching	77,043	0	0	7,110	84,153	5.43
Lac Qui Parle	49,420	0	0	3,082	52,502	6.30
Lake	47,765	0	0	4,403	52,168	5.24
Morrison	127,632	0	0	11,361	138,993	4.67
Nobles	130,288	0	0	6,789	137,077	6.98
Norman	10,676	0	0	2,358	13,034	1.74
Olmsted	193,097	0	0	32,787	225,884	2.01
Polk	59,757	0	0	13,183	72,940	2.28
Ramsey	1,746,630	0	0	179,318	1,925,948	3.85
Red Lake	7,145	0	0	1,573	8,718	2.03
Rice	285,549	0	0	19,597	305,146	6.05
Rock	59,641	0	0	3,111	62,752	6.59
St. Louis	952,123	0	0	87,641	1,039,764	5.32
Stearns	742,726	0	0	45,662	788,388	6.49
Swift	59,214	0	0	3,688	62,902	6.27
Todd	144,840	0	0	10,378	155,218	6.83
Wadena	91,048	0	0	3,522	94,570	7.31
Washington	484,011	0	0	43,634	527,645	3.29
Yellow Medicine	60,573	0	0	3,773	64,346	5.80
SUBTOTAL	\$10,529,389	\$0	\$0	\$1,043,980	\$11,573,369	\$3.59
<b>County Probation Officer/ DOC Counties</b>						
Benton	\$0	\$70,820	\$181,679	\$ 0	\$252,499	\$7.86
Big Stone	0	9,528	8,721	0	18,249	3.11
Brown	0	80,678	72,671	0	153,349	5.81
Carver	0	169,576	181,679	0	351,255	6.62
Cass	0	43,349	145,343	0	188,692	8.51
Chisago	0	81,612	181,679	0	263,291	8.11
Clearwater	0	19,713	36,336	0	56,049	6.86
Freeborn	0	81,000	145,343	0	226,343	7.13
Goodhue	0	144,194	145,343	0	289,537	7.01
Grant	0	9,469	8,721	0	18,190	3.06
Houston	0	38,926	36,336	0	75,262	4.03
Isanti	0	75,594	181,679	0	257,273	9.57
Itasca	0	119,804	145,343	59,300	324,447	8.09
Jackson	0	23,815	36,336	0	60,151	5.46
Kanabec	0	32,168	72,671	0	104,839	7.98
Meeker	0	42,041	36,336	0	78,377	3.75
Mille Lacs	0	64,465	145,343	0	209,808	11.08

**Table 1.2 Estimated State-Funded Probation Expenditures by County, 1995, continued**

County Name	Estimated CY 1995 Expenditures for Field Services Funded by CCA Grants	CY 1995 Probation Officer Salary Reimbursement	Estimated FY 1995 DOC Field Services Expenditures	FY 1995 Adult Felony Caseload Grants	Total State Funding Calendar Year 1995	Estimated State Funding Per Capita
<b>County Probation Officer/ DOC Counties, cont.</b>						
Mower	\$0	\$83,462	\$72,671	\$64,715	\$220,848	\$5.96
Nicollet	0	80,988	72,671	0	153,659	5.40
Otter Tail	0	92,656	145,343	0	237,999	4.74
Pine	0	69,075	72,671	70,135	211,881	9.72
Pope	0	38,682	18,168	0	56,850	5.43
Scott	0	215,284	218,014	0	433,298	6.73
Sherburne	0	79,290	109,007	70,135	258,432	5.45
Steele	0	76,814	109,007	0	185,821	5.98
Stevens	0	16,120	10,174	0	26,294	2.58
Traverse	0	6,766	8,721	0	15,487	3.70
Wabasha	0	41,810	36,336	0	78,146	3.91
Waseca	0	43,854	36,336	0	80,190	4.48
Wilkin	0	11,394	18,168	0	29,562	4.07
Winona	0	91,152	145,343	0	236,495	4.94
Wright	0	198,520	218,014	0	416,534	5.69
<b>SUBTOTAL</b>	<b>\$0</b>	<b>\$2,252,619</b>	<b>\$3,052,203</b>	<b>\$264,285</b>	<b>\$5,569,107</b>	<b>\$6.33</b>
<b>DOC Contract Counties</b>						
Becker	\$0	\$50,784	\$179,139	\$0	\$229,923	\$8.85
Beltrami	0	51,154	288,146	0	339,300	9.52
Clay	0	97,051	303,710	0	400,761	7.83
Cottonwood	0	23,772	56,833	0	80,605	6.68
Douglas	0	60,916	163,034	0	223,950	7.75
Faribault	0	47,740	78,004	0	125,744	7.88
Hubbard	0	8,367	71,859	0	80,226	5.25
Kittson	0	3,524	26,285	0	29,809	5.43
Lake of the Woods	0	2,588	16,968	0	19,556	4.62
LeSueur	0	52,616	144,495	0	197,111	8.42
Lincoln	0	6,770	131,563	0	138,333	21.41
Lyon	0	49,650	44,289	59,300	153,239	6.20
Mahnomen	0	63,975	153,776	0	217,751	6.59
Marshall	0	11,990	46,336	70,135	128,461	25.59
Martin	0	8,154	25,677	0	33,831	3.24
McLeod	0	57,186	169,685	0	226,871	10.20
Murray	0	9,522	30,814	0	40,336	4.43
Pennington	0	9,966	61,864	0	71,830	5.48
Pipestone	0	9,754	31,709	0	41,463	4.11
Redwood	0	28,485	159,487	0	187,972	11.39
Renville	0	26,206	80,951	0	107,157	6.34
Roseau	0	9,060	57,209	0	66,269	4.08
Sibley	0	26,048	89,371	0	115,419	8.22
Watsonwan	0	23,944	24,242	59,300	107,486	9.35
<b>SUBTOTAL</b>	<b>\$0</b>	<b>\$739,222</b>	<b>\$2,435,446</b>	<b>\$188,735</b>	<b>\$3,363,403</b>	<b>\$7.87</b>
<b>TOTAL</b>	<b>\$10,529,389</b>	<b>\$2,991,841</b>	<b>\$5,487,649</b>	<b>\$1,497,000</b>	<b>\$20,505,879</b>	<b>\$4.53</b>

Source: Program Evaluation Division analysis of financial data provided by Minnesota Department of Corrections.

## RECENT TASK FORCES AND LEGISLATIVE ACTIONS

During the past four years, legislators and legislatively-established study groups have devoted considerable attention to probation services and funding. In this section, we discuss recent legislative actions and the key elements of several recent reports mandated by the Legislature--particularly those that relate to probation funding.

### 1992-93 Probation Standards Task Force

The 1992 Legislature required the Commissioner of Corrections to establish a task force to, among other duties, suggest "minimum caseload goals" and report on "the need for increasing the number of probation officers and the cost of doing so."<sup>54</sup> The task force concluded that "there is an overwhelming need for more probation officers and an urgency to define and limit the capacity of probation supervision."<sup>55</sup> However, the 1993 task force said that it was unable to quantify the number of officers needed or set caseload goals because the state lacked a central probation information system and standardized case and workload definitions.

The task force recommended that each probation agency develop a system for classifying offenders based on factors such as type of offenses, criminal history, risk, and service needs. The task force said that this should be done in order to establish "appropriate strategies for case management," but it did not suggest that the classification systems be used for purposes of allocating state funding.<sup>56</sup>

Among the task force's other recommendations were:

- The Legislature should consider eliminating certain statutory mandates that have not been adequately funded. The task force said, for example, that mandatory chemical assessments for intoxicated drivers and presentence investigations for felony property offenders should be reconsidered.
- Probation agencies and courts should consider reducing services to less serious offenders if adequate resources are not allocated.
- Local correctional agencies should be encouraged and subsidized to develop volunteer services and other innovative approaches.

---

**The Probation Standards Task Force expressed concern about the lack of centralized caseload information.**

<sup>54</sup> *Minn. Laws* (1992), Ch. 571, Art. 11, Sec. 15.

<sup>55</sup> Probation Standards Task Force, *Minnesota Probation: A System in Crisis* (St. Paul, February 1993), v.

<sup>56</sup> *Minnesota Probation: A System in Crisis*, 14.

## 1993-94 Correctional Delivery System Work Group

The 1993 Legislature created a work group to study various issues regarding the way that community correctional services are organized and funded.<sup>57</sup> For example, the group was asked to consider whether Minnesota should institute "a single funding system. . . for county operations," and whether community corrections services should be provided by county or state employees. The group's members included legislators, judges, representatives of state and local corrections agencies, and others.

---

**The Correctional Delivery System Work Group recommended changes in the method of probation funding, but not changes in organizational structure.**

In its March 1994 report, the work group concluded, "There is a need to develop a uniform standard for determining funding for corrections/probation services that is based on primary correctional services and weighted workload units."<sup>58</sup> The work group identified a set of "primary correctional services" that should be available to the courts throughout Minnesota, and it said that a common funding formula for all service providers should be established for these services. It said that the funding system should:

- Provide equal primary services based on need and ability to pay;
- Be simple and easily understood;
- Protect service providers from funding reductions under the new formula "for a limited period of years;" and
- Have incentives to encourage innovation.

The work group said that, "The desirability of a 'weighted caseload' system is that it would recognize the differences in types of cases that may require varying amounts of time and resources to supervise."<sup>59</sup> The work group recommended that the Probation Standards Task Force be given responsibility for developing this system.

The work group recommended no changes in the organization of state and local probation services. It concluded that organizational structure had only "minor bearing" on the more important issues of "the need for fundamental probation services statewide, the need for adequate funding for those services, and the need for equity in the allocation of limited state resources."<sup>60</sup>

---

<sup>57</sup> *Minn. Laws* (1993), Ch. 146, Art. 2, Sec. 4, Subd. 2.

<sup>58</sup> *Report of the Joint Legislative-Conference of Chief Judges Correctional Delivery System Study* (St. Paul, March 1994), 10.

<sup>59</sup> *Ibid.*, 12.

<sup>60</sup> *Ibid.*, 4.

## 1993-94 Probation Standards Task Force

Because the previous Probation Standards Task Force did not make specific recommendations on funding or workload standards, the 1993 Legislature continued this task force and gave it new assignments. It asked the task force to determine the number and cost of additional probation officers needed statewide. The Legislature also asked the task force to recommend a method of funding these staff, standardized case definitions, legislative changes to implement objective case classification systems, and other changes that could improve probation services in Minnesota.<sup>61</sup>

---

**The second Probation Standards Task Force said that Minnesota needed more than 500 additional probation officers.**

The task force held a one-day focus group for 35 probation officers from throughout the state. Participants reached general agreement on "maximum caseload sizes" for various categories of offenders. The task force applied these standards to the number of offenders on probation statewide to conclude that Minnesota needed to increase the number of full-time equivalent probation officers by 70 percent (from 804 to 1,368).<sup>62</sup> The task force estimated that adding the recommended officers would cost \$41 million, and it recommended that the full cost be paid by the state. The task force recommended that probation funding be allocated to service providers based on a single funding formula, starting in 1995.

In addition, the task force recommended that the Legislature should require each service provider to implement a system for classifying its offenders in order "to target the use of resources devoted to offender supervision."<sup>63</sup> The task force recommended against having a single, statewide classification instrument, and it did not recommend that state probation funds be allocated on the basis of offender classifications. Rather, the task force proposed that the state allocate funds to service providers based on their "weighted" caseloads--using weights recommended by the task force that were intended to reflect the amount of time required by probation officers to work with various categories of offenders.

Finally, the task force recommended that each probation agency provide the Department of Corrections with (1) a written planning document outlining its correctional services, (2) uniform data on specified outcomes of probation services, and (3) information on the number and type of offenders assigned to probation.

## Increases in State Probation Funding, 1994 and 1995

In 1994 and 1995, the Legislature responded to concerns raised in the aforementioned reports by appropriating additional funds to help address high probation

---

<sup>61</sup> *Minn. Laws* (1993), Ch. 326, Art. 10, Sec. 16.

<sup>62</sup> This did not include the cost of supervising juvenile status offenders, a service that the task force said did not meet the definition of "primary correctional services" adopted by the 1994 workgroup on the correctional delivery systems.

<sup>63</sup> Probation Standards Task Force, *Probation in Minnesota: Putting the Pieces Together* (St. Paul, December 1994), 23.

caseloads. The 1994 Legislature supplemented existing probation funding for the 1994-95 biennium by appropriating an additional \$1.5 million, which the Department of Corrections allocated for the purpose of reducing adult felony caseloads. The department allocated 70 percent of these funds to Community Corrections Act counties, based on each county's share of CCA funding under the existing formula. The Department of Corrections used the remaining 30 percent to hire its own probation officers in seven counties where it provides services to adult felons.

In 1995, the Legislature appropriated an additional \$14.5 million for probation and supervised release services for the 1996-97 biennium to help reduce the caseloads of probation officers. The Legislature specified that increased supervision could be accomplished through various methods, such as traditional probation, cooperative agreements, prevention and diversion programs, and innovative technology.<sup>64</sup> In addition, the Legislature increased CCA funding by \$5.0 million for the 1996-97 biennium.

For fiscal year 1996, the Commissioner of Corrections will be distributing the caseload reduction funding to all 87 counties based on the existing CCA distribution formula.<sup>65</sup> The department required counties to submit proposals for their expenditures to help ensure that the new funds would, in fact, result in lower caseloads. For fiscal year 1997, the law states that the Commissioner of Corrections will distribute funds for "caseload reduction, increased intensive supervised release and reimbursement according to uniform standards and definitions of levels of risk adopted by the Legislature after review of the legislative auditor's weighted workload study."<sup>66</sup>

## 1995 Community Corrections Act Work Group

The 1995 Legislature required the chairs of the House Judiciary Finance Committee and the Finance Division of the Senate Crime Prevention Committee to convene a work group to recommend changes in the existing formula for allocating funds to counties under the Community Corrections Act. The current formula is shown in Figure 1.5.

The work group concluded that the existing formula has many flaws. For example, they said that the formula fluctuates too much from one biennium to the next, is too complex, and does not adequately measure counties' "ability to pay" for services. In addition, the work group determined that the formula, despite its complexity, allocates funds nearly in direct relationship to county total population.<sup>67</sup>

---

**The work group concluded that the CCA fund allocation formula is flawed.**

<sup>64</sup> *Minn. Laws* (1995), Ch. 226, Art. 1, Sec. 11, Subd. 3.

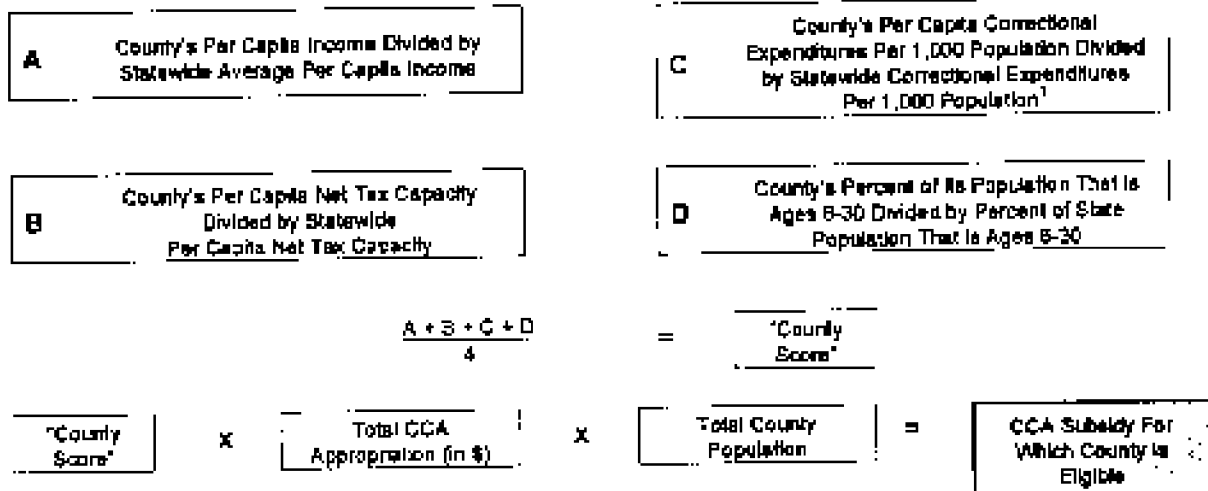
<sup>65</sup> In accordance with *Minn. Stat.* §401.10, the Department of Corrections "scores" all 87 counties on the CCA formula factors, although it usually has used this formula only to make allocations to the 31 CCA counties.

<sup>66</sup> *Minn. Laws* (1995), Ch. 226, Art. 1, Sec. 11, Subd. 3

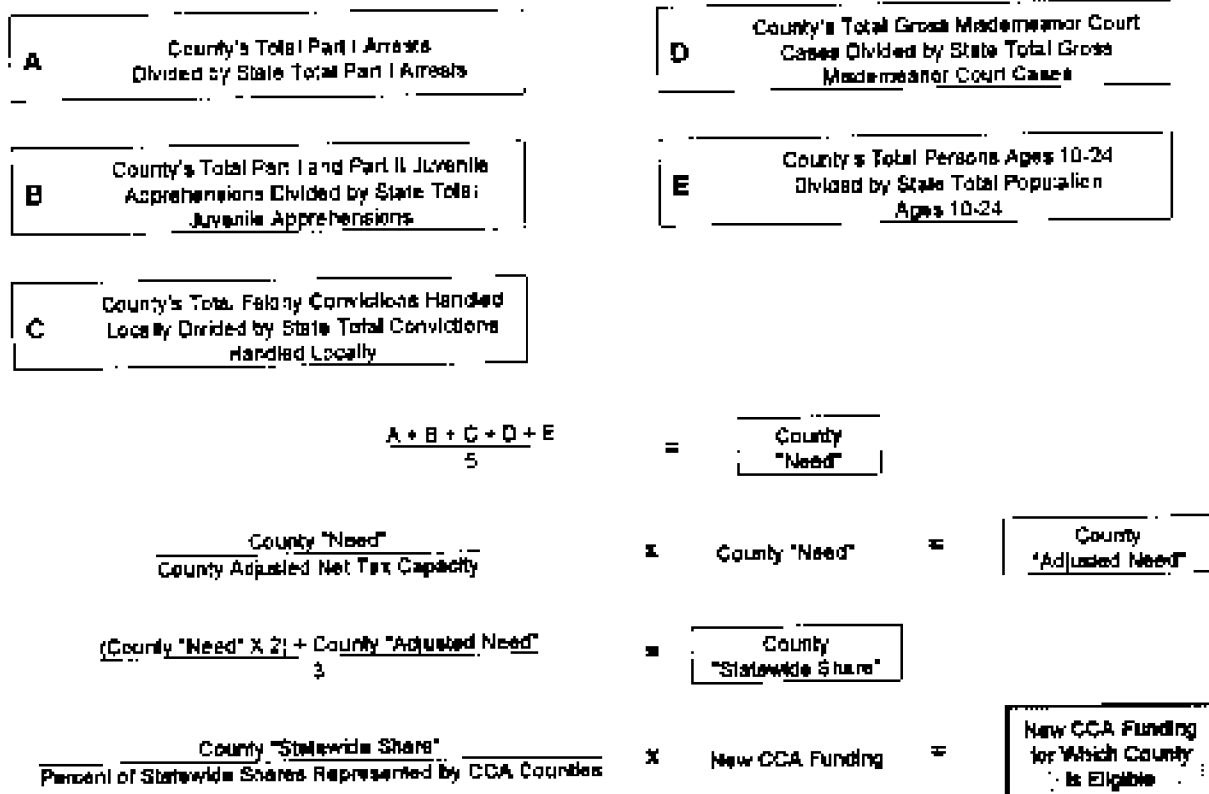
<sup>67</sup> Working Group on Community Corrections, *Fair and Equitable: A New Community Corrections Formula* (St. Paul, October 18, 1995).

### Figure 1.5: Existing and Proposed Community Corrections Act Allocation Formulas

**Existing Method (Minn. Stat. §401.10):**



**Method Proposed by CCA Work Group, 1995:**



<sup>1</sup>Per capita expenditures per 1,000 population is the sum of (a) number of persons convicted of felonies under supervision in county at the end of the year, multiplied by \$350, (b) number of presentence investigations conducted during the year, multiplied by \$50, and (c) 1.33 multiplied by the annual cost to the county for juvenile probation officers' salaries during the year.



The work group recommended a new formula, shown in Figure 1.5. One of the work group's goals was to develop a formula that related more closely to the actual workloads of counties. The work group members agreed on five measures that, in their view, reflected counties' spending needs and one measure that reflected counties' ability to pay for services. As proposed by the work group, the formula would guarantee that each county receive at least as much CCA funding in future years as it did in fiscal year 1996, and the revised formula would be used only to distribute funding in excess of the \$29.912 million distributed statewide in 1996 under the old formula.