



Vermont State Auditor

January 28, 2011

SEXUAL ABUSE RESPONSE SYSTEM

Recommended Audit Strategy

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Vermont State Auditor

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**THOMAS M. SALMON, CPA
STATE AUDITOR**



**STATE OF VERMONT
OFFICE OF THE STATE AUDITOR**

January 28, 2011

The Honorable Richard Sears
Chair, Committee on Judiciary
Vermont Senate

The Honorable William Lippert
Chair, Committee on Judiciary
Vermont House of Representatives

Dear Colleagues,

This document conveys our recommended audit strategy of the State's sexual abuse response system as called for by Act 157 (2010). In developing this audit strategy, we applied the risk assessment framework tool contained in our Professional Standards Manual. We also reviewed legislative reports on this issue, obtained background material from several State organizations, and discussed how to address confidentiality of records with representatives of victim assistance organizations, the Department of Corrections, and the Judiciary.

This strategy outlines five potential audits to be conducted over a several year period. We have also agreed to reaudit Vermont's Sex Offender Registry once a new system is implemented. Taken together, the reaudit of the registry and the five potential audits contained in this strategy would require a significant proportion of my office's available staff time be devoted to issues related to sex crimes. The legislature has also required that my office conduct audits related to other topics, particularly those related to economic development, which require significant staff resources. Accordingly, at this time, I am committing my office to completing the reaudit of the Sex Offender Registry and two of the audits discussed in this strategy—audits of the State's special investigative units and sexual abuse prevention programs. Once these audits are completed, I plan to contact you for further discussion of the priorities of your Committees and whether future audits of the State's sexual abuse response system would prove worthwhile.

Please call me at 828-2281 or email me at tom.salmon@state.vt.us if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thomas M. Salmon CPA".

Thomas M. Salmon, CPA
State Auditor

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Introduction

At the direction of the legislature, our office has undertaken two audits related to sex offenders in the past year—on the reliability of the Sex Offender Registry¹ and the caseloads of Department of Corrections’ (DOC) probation and parole officers who supervise sex offenders.² We have also committed to reauditing the Sex Offender Registry once the Department of Public Safety has implemented a new system.

The legislature has also expressed interest in our performing additional audits related to sex crimes. In particular, our office was asked to consider how to audit the range of issues and organizations related to the State’s Sexual Abuse Response System. Accordingly, Section 9 of Act 157 (2010) states that “The auditor of accounts and the Vermont network against domestic and sexual violence shall collaborate as to the best approach to conducting an audit of the state’s sexual abuse response system while protecting confidentiality of victims and shall report their recommendations to the senate and house committees on judiciary no later than February 1, 2011.”

To develop this audit strategy, we performed preliminary research on various elements of the State’s sexual abuse response system sufficient to employ our risk assessment framework tool for assessing potential audit engagements. We also contacted and obtained information from the following organizations:

- Judiciary
- Department of Public Safety
- Department of Corrections
- Department for Children and Families
- Department of Disabilities, Aging, and Independent Living
- Department of Health
- Department of Mental Health
- Department of Education
- Department of State’s Attorneys and Sheriffs’ Association
- Center for Crime Victim Services
- Vermont Children’s Alliance

¹*Sex Offender Registry: Reliability Could Be Significantly Improved* (Rpt. No. 10-05, June 25, 2010).

²*Sex Offender Supervision: Corrections’ Caseloads Were Largely in Accordance with Statutory Requirements, but Monitoring Tools Could Be Improved* (Rpt. No. 11-01, January 10, 2011).

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- Vermont Network Against Domestic and Sexual Violence

We also held discussions with several of the above organizations, including the Vermont Network Against Domestic and Sexual Violence, regarding how various Federal and Vermont laws related to the confidentiality of records might impact audits related to the sexual abuse response system.

Recommendations

To encompass the range of issues and organizations related to the State's sexual abuse response system, we are proposing a series of five potential audits that, if undertaken in their entirety, would take place over 4-5 years. Our recommendations are based on an assessment on the usefulness, legislative interest, and auditability of each of these areas as well as the resources and skill set in our office.

The Chairmen of the Senate and House Committees on Judiciary expressed particular interest in audits of the State's sexual abuse prevention programs and special investigative units. These topics also scored high on our risk assessment tool so we recommend that these two audits be undertaken. Based on our current commitments and available resources, we can begin one of these audits in the Fall of 2011 and the second in the Spring/Summer of 2012. (These start dates could be affected by our commitment to assign a high priority to reauditing the reliability of the State's Sex Offender Registry once the Department of Public Safety has implemented a new system.)

Our research also indicated that it is also feasible to audit the (1) presentence investigation process, (2) supervision and treatment of convicted sex offenders, and (3) sexual abuse victim assistance programs. At this time we do not plan on starting audits in these areas. We plan to complete the two audits referenced in the prior paragraph and the reaudit of the Sex Offender Registry and then meet with legislators to determine the continued priority and interests in these audits by the applicable committees.

The following provides additional detail on each potential audit area.

Sexual Abuse Prevention Programs

Background

In a report on the State's sexual abuse response system³ and in recent legislation (primarily Act 1 in 2009), the legislature recognized that priority should be given to stopping sexual abuse, not just dealing with the abuse after it has happened. Accordingly, additional emphasis has been given to prevention education and outreach and screening of individuals who come into contact with children.

- *Prevention Education and Outreach.* The Department for Children and Families, the Department of Education, and others have implemented several recent education and outreach initiatives that were geared towards the schools and the community at large. For example, as it relates to school programs, the State implemented the Commit to Kids program to help schools develop and manage their comprehensive prevention education programs and developed a Technical Assistance Resource Guide to help schools incorporate nationally recognized best practices into their sexual abuse prevention curriculum. Regarding community-based initiatives, the legislature required the Agency of Human Services to develop a community outreach plan to better enable parents and other adults to protect children and youth from sexual abuse. For example, this plan included the development of a Parent Guide and a website to serve as resources on how to keep children safe from sexual abuse.
- *Background Screening.* Act 1 (2009) strengthened the laws related to the screening of school employees and others. For example, the Department of Education must request the criminal record for any person applying for an initial or reinstated license as a professional educator. In addition, the State's Sex Offender Registry, Child Protection Registry, and Vulnerable Adult Abuse, Neglect, and Exploitation Registry are required to be checked by certain officials, such as school superintendents.

³The Senate Committee on Judiciary's 34-Point Comprehensive Plan for Vermont's Sexual Abuse Response System (prepared by the Office of Legislative Council, November 12, 2008).

Proposed Issues to Address

- Profile sexual abuse education and outreach programs in terms of funding amounts and sources, constituency served, and services provided.
- Determine whether the State measures the effectiveness of its sexual abuse prevention education and outreach programs and, if not, consider performing such an evaluation through (1) a survey of end users (e.g., schools) and (2) a comparison of statistical information before and after the major programs' implementation.
- Ascertain whether criminal records and registry checks are being conducted in accordance with statutory requirements.

Methodological Risks

Measuring effectiveness. It is unknown whether our research will find independent criteria for measuring effectiveness of prevention education and outreach programs. In addition, in order to perform a comparison of statistical data, baseline data must be available. Without such information our ability to evaluate effectiveness would be limited.

Special Investigative Units

Background

Special investigative units (SIUs) investigate allegations of sex crimes and work with local law enforcement to perform annual sex offender registry address compliance checks. Act 192 (2006) required that each region of the state have an SIU in place by July 1, 2009. Prior to this mandate only two SIUs had been established and were operating, the Northeast and Chittenden Units for Special Investigations. These two SIUs served as a blueprint for the formation of the 10 other SIUs established across the remaining regions of the State.

Most of the SIUs use a multidisciplinary approach to investigate sex crimes, which may involve leveraging a variety of specialized resources, such as state trooper investigators, local law enforcement investigators, state prosecutors, DCF investigators, victims' advocates, and medical and therapeutic staff, to assist the different areas of the investigations. For example, there are 11 state trooper investigators assigned to the SIUs from the Department of Public Safety. In addition, many of the SIUs have formed, or plan to form, alliances

with local child advocacy centers,⁴ allowing the State additional resources to address sex crimes involving children.

Proposed Issues to Address

- Identify and compare the implementation status, operations, and funding structure of each SIU.
- Evaluate the effectiveness of the SIUs by comparing available metrics to established standards.
- Determine whether required sex offender registry address compliance checks are being performed and the results reported to the Sex Offender Registry.

Methodological Risks

Measuring effectiveness. It is unknown whether our research will find independent criteria for measuring effectiveness for SIU programs. Without independent criteria, our ability to evaluate effectiveness would be limited.

Presentence Investigations

Background

A presentence investigation report is an investigatory report conducted by DOC into an offender's social, economic, medical, education, and criminal background. This report is ordered by the court and submitted to the judge so that informed sentencing decisions can be made. Presentence investigation reports are also used as part of DOC's case planning process within correctional facilities and probation and parole offices.

28 VSA §204a states that the DOC shall conduct a presentence investigation for all persons convicted of certain sex crimes, such as lewd and lascivious conduct, sexual assault, and sexual exploitation of children. In addition, 28 VSA §204 indicates that the Court may order presentence investigations for convictions of other crimes as well. These statutes also include requirements related to the conduct and timing of presentence investigation reports. In addition, DOC has issued a directive related to the conduct, content, and

⁴Child Advocacy Centers are accredited by the National Children's Alliance®.

quality of presentence investigations and performs annual training related to such investigations for sex offenders.

Proposed Issues to Address

- Determine whether presentence investigations are being ordered and executed in accordance with statutory requirements.
- Determine whether presentence investigations are meeting expectations. This could involve (1) comparing a selection of presentence investigation reports to DOC criteria for content and process and/or (2) surveying district court judges regarding their satisfaction with, and use of, presentence investigation reports.

Methodological Risks

Confidentiality of records. Vermont law includes confidentiality strictures related to presentence investigation reports. Based on discussions with DOC and the Judiciary, we believe that we will be able to reach an agreement that would allow us to obtain access to records necessary to conduct this audit. However, if we are not able to reach such an agreement, it would significantly limit our ability to perform this audit.

Supervision and Treatment of Convicted Sex Offenders

Background

After a sex offender is convicted of a crime, a judge imposes a sentence, which can include a period of incarceration, supervision in the community, or a combination of these measures. In addition, an offender may be released from incarceration to community supervision by other mechanisms, such as parole or furlough. Once under community supervision, a sex offender is supervised by a DOC probation and parole officer using the department's risk management supervision standards. Risk management is the most intensive type of DOC supervision and involves case planning and other measures to reduce the risk of re-offense. In December 2010, DOC issued a revised directive related to risk management supervision (effective March 1, 2011), which includes requirements related to risk assessments, case planning, minimum contact requirements, supervision planning, and risk control strategies. DOC has also been utilizing technology, such as electronic monitoring and polygraphs, in its supervision of sex offenders.

As part of its risk reduction strategy, DOC has implemented the Vermont Treatment Program for Sexual Abusers, which includes three treatment programs for incarcerated offenders as well as a community-based program. The community-based program is composed of a network of 13 programs geographically dispersed throughout Vermont. DOC has reported that such specialized treatment programs reduce the risk of re-offense.

Proposed Issues to Address

- Ascertain whether sex offenders under community-based supervision are being supervised in accordance with the DOC risk management directive.
- Identify the extent to which DOC uses technology in its supervision of sex offenders.
- Assess the extent to which sex offenders under DOC supervision undergo sex offender treatment and whether the effectiveness of this treatment has been evaluated.

Methodological Risks

Confidentiality of records. Vermont and Federal law includes confidentiality strictures related to DOC offender and treatment records. Based on discussions with DOC, we believe that we will be able to reach an agreement that would allow us to obtain access to records necessary to conduct this audit. However, if we are not able to reach such an agreement, it would significantly limit our ability to perform this audit.

Sexual Abuse Victim Assistance Programs

Background

Vermont funds a variety of victim assistance activities through various programs and State and non-governmental organizations. Some of these activities are provided to all victims while others are specifically related to victims of sexual abuse. The Center for Crime Victim Services is the State entity whose primary focus is addressing victims' needs. The Center administers a victim's compensation program and a sexual assault program that pays for rape exams and mental health counseling. In addition, the Center funds victims' assistance programs executed by other State entities and non-governmental organizations. For example, the Center:

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- Funds victim advocates in the State’s Attorneys’ offices and the Attorney General’s Office, some of whom are focused on domestic violence, sexual assault, or child abuse. These advocates assist victims through the criminal justice process and act as liaisons with the State’s attorneys and other criminal justice agencies.
 - Administers grant programs specifically related to sexual violence. For example, the State Domestic Violence and Sexual Assault Funds are passed through to the 15 member organizations of the Vermont Network Against Domestic and Sexual Violence (e.g., the Women’s Rape Crisis Center, Sexual Assault Crisis Team, Clarina Howard Nichols Center) that perform a variety of services for victims of sexual assault, including staffing confidential hotlines, sponsoring support groups, and legal services/advocacy. In addition, the Child Advocacy Grant program provides funding to six nationally-accredited Child Advocacy Centers whose activities include the clinical treatment of children who have been sexually assaulted. Funds from federal grant programs, such as the STOP Violence Against Women formula grant, are also passed through the Center to other entities.

Other state organizations also provide victim assistance services. For example, DOC’s Victim Services Program provides information, assistance, and support to victims of crime when the offender is in the custody of or under the supervision of DOC.

Proposed Issues to Address

- Profile the State’s sexual abuse victim assistance programs in terms of funding amounts and sources, constituency served, and services provided.
- Ascertain how the effectiveness of these programs is being determined. It is expected that we would focus on, but not be limited to, how the Center for Crime Victim Services determines that the activities that it funds are achieving its goals.

Methodological Risks

Scope limitation. The organizations associated with the Vermont Network Against Domestic and Sexual Violence and the Child Advocacy Centers obtain funding from non-governmental sources. Our audit would be limited

to considering those activities of these entities that are funded through the State (either State funds or Federal funds funneled through the State).

Confidentiality of records. Based on communication with the Center for Crime Victims Services and the Network Against Domestic and Sexual Violence, we believe that we will be able to reach an agreement that would allow us to obtain access to records necessary to conduct this audit. However, if we are not able to do so, it would significantly limit our ability to perform this audit.

Measuring effectiveness. It is unknown whether our research will find independent criteria for measuring effectiveness for victim assistance programs. Without independent criteria, our ability to evaluate effectiveness would be limited.