



Report of the Vermont State Auditor

January 10, 2011

SEX OFFENDER SUPERVISION

Corrections' Caseloads Were
Largely in Accordance with
Statutory Requirements, but
Monitoring Tools Could Be
Improved

Thomas M. Salmon, CPA
Vermont State Auditor
Rpt. No. 11-01

Mission Statement

The mission of the State Auditor's Office is to be a catalyst for good government by promoting professional audits, financial training, efficiency and economy in government and service to cities and towns.

This report is a work of the Office of the State Auditor, State of Vermont, and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from the State of Vermont or the Office of the State Auditor. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately. Please contact the Office of the State Auditor if you have questions about reproducing this report.

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



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

January 10, 2011

Addressees (see next page)

Dear Colleagues,

As required by Act 1 (2009), we performed an audit of the Department of Corrections' (DOC) caseloads pertaining to sex offenders. During the audit we assessed whether the caseloads of probation and parole officers (POs) were within statutory limitations and whether POs who supervise sex offenders had taken sex offender management training.

DOC designated 29 POs to supervise sex offenders in the community and the vast majority of these sex offenders were supervised by the designated POs. In addition, sex offender POs were assigned caseloads largely in accordance with statutory requirements. However, DOC report deficiencies and data errors hindered the department's caseload monitoring capabilities. With respect to training, we found that the majority of POs supervising sex offenders had attended all or part of DOC's four courses on sex offender management.

This report includes recommendations designed to improve DOC's caseload monitoring and the accuracy and timeliness of data in the Department's system as well as to expeditiously develop an implementation strategy related to DOC's planned PO training curriculum. For example, we recommend developing or modifying an existing report that would track and clearly show whether POs' caseloads are within statutory limitations.

I would like to thank the management and staff at the Department of Corrections for their cooperation and professionalism during the course of the audit. If you would like to discuss any issues raised by this audit, I can be reached at (802) 828-2281 or at auditor@state.vt.us.

Sincerely,

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

Thomas M. Salmon, CPA
Vermont State Auditor

ADDRESSEES

The Honorable Shap Smith
Speaker of the Vermont House of Representatives

The Honorable John Campbell
President Pro Tempore of the Vermont Senate

The Honorable Richard Sears
Chair
Committee on Judiciary
Vermont Senate

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

The Honorable Alice Emmons
Chair
Committee on Corrections and Institutions
Vermont House of Representatives

The Honorable Peter Shumlin
Governor

Mr. Douglas Racine
Secretary
Agency of Human Services

Mr. Andrew A. Pallito
Commissioner
Department of Corrections

Contents

Report

	Page
Introduction	1
Highlights	3
Background	4
Almost All of the Designated Sex Offender POs Had Caseloads Compliant with Statutory Requirements	6
POs Supervising Sex Offenders Largely Had Received Training in Sex Offender Management	15
Conclusions	18
Recommendations	19
Management Comments and Our Evaluation	20
Appendix I: Scope and Methodology	21
Appendix II: Factors that Limit the Caseload Levels of POs	23
Appendix III: Parameters of the Historic Resource Allocation Report vs. Active Caseload	24
Appendix IV: Sample of a Summary Historic Resource Allocation Report	25
Appendix V: Response of the Commissioner of the Department of Corrections	26

Tables

Table 1: Number of Designated Sex Offender POs in Each of DOC's Probation and Parole Offices as of September 2010	6
Table 2: Comparison of the Designated POs' Caseloads in the DOC Historic Resource Allocation Report and Actual Active Cases	11

Contents

Page

Table 3: Description of DOC's Sex Offender Management Courses	16
Table 4: Comparison of Whether Certain Types of Cases Are Considered to Require Active Supervision Versus How They Were Treated in the Historic Resource Allocation Report	24

Figures

Figure 1: Caseload of DOC's 29 Designated Sex Offender POs, as of September 27, 2010	3
Figure 2: Caseload of DOC's 29 Designated Sex Offender POs, as of September 27, 2010	8
Figure 3: Number of DOC Sex Offender Training Courses Taken by 36 POs Supervising Sex Offenders or Authorized to Supervise Such Offenders (as of August 18, 2010)	17
Figure 4: Diagram Illustrating the Factors that Limit the Caseload Levels of DOC POs	23

Abbreviations

DOC	Department of Corrections
IT	Information Technology
PO	Probation and Parole Officer
QBE	Query By Example
SOR	Sex Offender Registry
VCIC	Vermont Criminal Information Center
VSA	Vermont Statute Annotated

Introduction

Offenders who commit sex crimes evoke concern and fear in communities. According to a recent report, the majority of convicted sex offenders serve all or most of their time in the community.¹ Because of the heightened concern and since sex offenders are frequently supervised in community settings, community supervision of convicted sex offenders is an important public safety issue.

The heinous rape and murder of 12-year-old Brooke Bennett, allegedly committed by a sex offender discharged from Department of Corrections' (DOC) supervision, caused the Vermont Legislature to examine Vermont's sexual abuse response system and ultimately led to changes in this system. Specifically, in 2008 the Senate Committee on Judiciary explored weaknesses in the criminal justice system that could have led to this crime. The senate committee held several meetings and public hearings around the state. The committee heard from over 150 witnesses, both experts and concerned citizens. As a result, the committee issued a 34-point plan to improve Vermont's sexual abuse response system, including recommendations to improve DOC's sex offender supervision.²

Following up on the initiatives outlined in the 34-point plan, the Legislature passed Act 1 (approved in March 2009), which contained significant changes related to the state's sex offender management system. Among other provisions, section 42 of Act 1 required DOC to designate and train probation and parole officers (POs) in each district office to supervise sex offenders and to generally limit the caseload³ of these POs to 45 offenders.⁴ In addition,

¹*Supervision of the Sex Offender, Community Management, Risk Assessment and Treatment*, Georgia Cumming and Robert McGrath, 2005.

²*The 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).

³The statute does not define the term caseload. For purposes of this audit, we adopted DOC's characterization of the types of cases that require active supervision as making up the 45 caseload limit. This definition excludes offenders that are assigned to a PO, but who do not require the same level of effort as active supervision, such as those offenders that are incarcerated, supervised in another state, or have an outstanding warrant.

⁴POs that have a "mixed" caseload of cases requiring different levels of supervision may have caseloads higher than 45.

section 43 of this act required our office to conduct an audit related to sex offender PO caseloads.

To fulfill the audit requirements in section 43 of Act 1 our audit objectives were to (1) assess the extent to which caseloads of designated⁵ sex offender POs were in compliance with 28 VSA §106(c)—the statute that sets the requirements related to sex offender PO caseloads and (2) ascertain whether sex offenders were supervised by POs trained in sex offender management.

The audit work for our first objective largely consisted of comparing three sources of information on the 29 designated sex offender POs' caseloads. First, we reviewed an electronic data file from DOC containing records of offenders under DOC community supervision. Second, we reviewed POs' caseloads per information received from the POs themselves. Finally, DOC provided us with reports used to monitor caseloads of POs. We followed up on inconsistencies between the three sources to arrive at a final caseload number. To perform our second objective we requested training records from DOC, from which we extracted information on sex offender training courses attended by all POs supervising sex offenders. We also interviewed DOC central office personnel and visited and interviewed district managers, PO Supervisors and administrative staff members at four probation and parole offices. Additional detail on our scope and methodology can be found in appendix I.

⁵Designated sex offender POs are those POs that DOC has assigned to specialize in supervising sex offenders. (Other POs may also supervise sex offenders on a more limited basis.)

Highlights: Report of the Vermont State Auditor

Sex Offender Supervision: Corrections' Caseloads Were Largely in Accordance with Statutory Requirements, but Monitoring Tools Could Be Improved

(January 10, 2011, Rpt. No. 11-01)

Why We Did This Audit

In accordance with section 43 of Act 1 (2009), the objectives of this audit were to (1) assess the extent to which caseloads of designated sex offender POs were in compliance with 28 VSA §106(c)—the statute that sets the requirements related to sex offender PO caseloads and (2) ascertain whether sex offenders were supervised by POs trained in sex offender management.

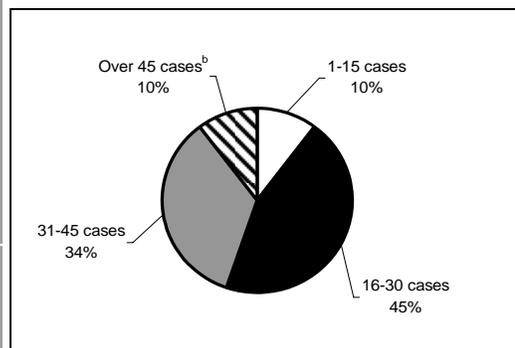
What We Recommend

Our report makes a number of recommendations to improve the process of caseload monitoring, including developing a standard report that would readily identify whether POs' caseloads are within statutory limitations, establishing written procedures for timely updates of offender records in the DOC system and developing and implementing system training for field office personnel. We also recommended the expeditious development of a PO training curriculum implementation strategy.

Findings

As of September 27, 2010, the caseload of one designated sex offender PO exceeded the statutory limit. As shown in figure 1, 26 of the 29 designated sex offender POs had caseloads below the 45-offender limit requirement and two of the three POs with higher caseloads fell within an exception category allowed by the statute.

Figure 1: Caseload of DOC's 29 Designated Sex Offender POs, as of September 27, 2010^a



^aNot all of the cases supervised by designated sex offender POs are sex offenders.

^bTwo of the three POs with over 45 cases did not exceed the statutory limit because they had mixed caseloads (caseload with more than one supervision level). The statute allows mixed caseloads to be higher than 45 cases under certain circumstances.

Note: Percentages do not add to 100 percent due to rounding.

DOC monitors PO caseloads primarily at the local level and periodically at its central office, but this process relies on reports that do not readily identify whether the caseloads were in accordance with the statutory limits. In addition, these reports contained data errors related to offenders' supervision status. The weaknesses of the DOC reports were attributed to a DOC system that users characterized as old, cumbersome, and not easily modifiable. In addition, DOC personnel reported that they did not receive specific system training, but instead were self-taught or relied on ad hoc assistance from more experienced staff members. Further, none of the four offices visited had written procedures describing the process and timing for making changes to offenders' records.

As required by statute, POs who supervise sex offenders had largely received training in sex offender management. DOC currently offers four training courses related to sex offender management – Sex Offender Profiles, Sex Offender Risk Assessment, Sex Offender Pre-Sentence Investigations, and Sex Offender Supervision. About half of the POs supervising sex offenders have taken all four of these courses and about three quarters took at least half of the courses. For those POs who had not taken all of the courses, DOC officials explained the courses may not have been offered at the time of the year a PO needed to start supervising sex offenders. In addition to offering specialized sex offender management training, DOC has made progress in developing a draft training curriculum related to maintaining and improving general PO skills and knowledge related to offender supervision. However, DOC has not determined how this curriculum will be implemented. Training in basic PO competencies, in conjunction with specialized sex offender management training, can help raise or maintain the skills and knowledge of DOC's designated sex offender POs.

Background

After an 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. Among the most common types of community supervision are:

- Probation – the legal status, imposed by a court that suspends all or part of the sentence and places an offender in the care and custody of the Commissioner of Corrections, upon such conditions and for such time as the court may prescribe, in accordance with law, or until further order of the court.
- Parole – the release of an inmate to the community by the Parole Board before the end of the inmate’s sentence, subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner of Corrections.
- Furlough – a period of reintegration into the community following incarceration during which the offender participates in restorative and/or risk management programs; an approved absence from a correctional facility under precise conditions. The types of furlough include, but are not limited to, reintegration furlough, medical furlough, and treatment furlough.

Once under community supervision, the intensity of that supervision for an offender is based on the seriousness and circumstances of the crime and the risk of reoffending. DOC employs different types of supervision. Risk management⁶ is the most intensive type of supervision and involves case planning and other measures to reduce the risk of reoffense. The next level of supervision is response supervision, which involves monitoring of the offender’s compliance with conditions of probation or parole and response to violation behavior.

Once offenders are under DOC’s authority, their information, such as their personal data, convictions, type of supervision, and risk assessment scores are

⁶According to an internal DOC email by the department’s former Field Service Executive (dated July 6, 2009), sex offenders are required to be supervised under risk management supervision.

entered into the DOC's Population Accounting System – a database that contains both current and historic data. DOC staff can access the system via two mechanisms – a desktop application (TinyTerm) and a web application. According to staff members at the four probation and parole offices we visited, most data is entered into the DOC system through TinyTerm, primarily by DOC administrative staff. These DOC field office staff members explained that POs and PO supervisors generally provide the administrative staff with offender information that is used to create and update an offender's record in the DOC system. Offenders' records are updated for a variety of reasons. For example, an offender (1) can be transferred to another state for supervision, (2) may abscond and have a warrant issued for his or her arrest, or (3) can be discharged from DOC supervision.

DOC community supervision is conducted by POs at 11 probation and parole offices throughout the state. Overall, DOC has 136 POs that supervise offenders in the community. POs can specialize not only in supervision of sex offenders, but also in the supervision of violent offenders, youthful offenders, or offenders who need more specialized attention due to substance abuse or mental health issues.

DOC treats offenders convicted under sex offense statutes as well as offenders convicted of other crimes who have a credible documented history of a sexual offense, as sex offenders for supervision purposes. Sex offenses include crimes such as sexual assault, lewd and lascivious conduct, and sexual exploitation of a child.

DOC has designated 29 POs to supervise sex offenders. Each probation and parole office has one or more of this type of POs. Table 1 summarizes the number of sex offender POs in each of these offices as of September 2010.

Table 1: Number of Designated Sex Offender POs in Each of DOC's Probation and Parole Offices as of September 2010

Probation and Parole Office	Number of Sex Offender POs
Barre	3
Bennington	2
Brattleboro	3
Burlington	6
Hartford	3
Morrisville	1
Newport	2
Rutland	2
Springfield	2
St. Albans	3
St. Johnsbury	2

Almost All of the Designated Sex Offender POs Had Caseloads Compliant with Statutory Requirements

Caseloads of the POs designated to supervise sex offenders were largely in accordance with statutory requirements. Twenty-eight out of 29 designated sex offender POs had caseloads below the statutory caseload limits for POs designated to supervise sex offenders. The caseload of one designated sex offender PO exceeded the statutorily required threshold by 13 percent. Moreover, DOC did not have an effective reporting mechanism for monitoring caseloads and there is risk that more significant noncompliance could occur in the future since reports containing incomplete, inaccurate, and misleading data were used in making PO staffing decisions. Sex offender community supervision caseloads are expected to rise, which, in turn, will likely cause more sex offender POs to approach, and perhaps exceed, the statutory caseload limit if deficiencies in DOC's reporting mechanisms are not addressed.

Designated Sex Offender POs Almost Always Supervised Fewer Than 45 Offenders

In accordance with 28 VSA §106 (c), POs designated to supervise sex offenders shall not have a caseload of more than 45 offenders, except that a mixed caseload shall be managed pursuant to 28 VSA §105 (d)(5). 28 VSA §105 (d)(5) states that in the event that a PO has a mixed profile caseload in which a single corrections officer supervises offenders with different supervision levels and at least one-third of the offenders require a more

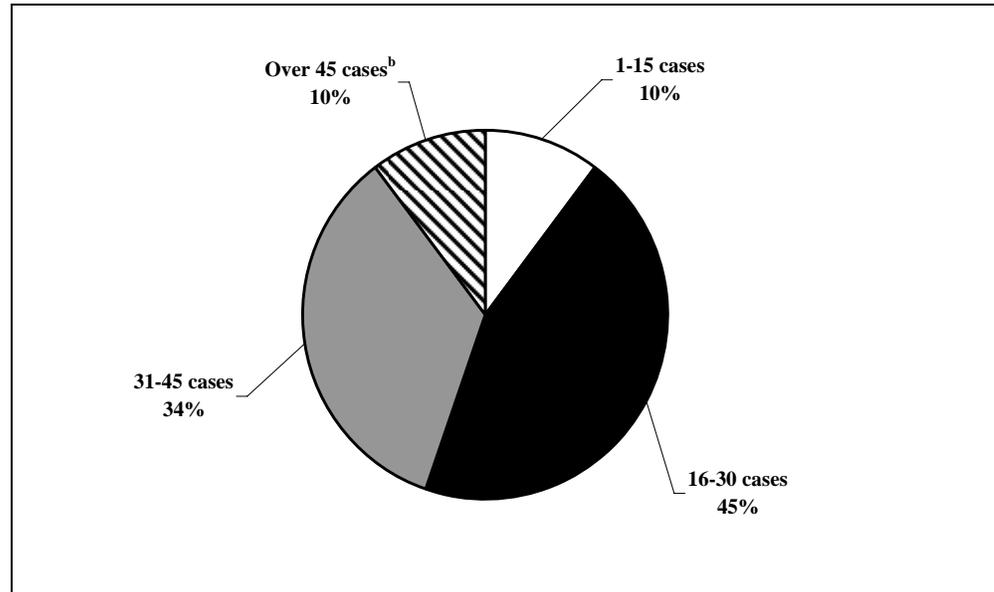
intensive supervision⁷ than the other offenders, the caseload shall be supervised at the lowest level of offender-to-staff ratio. Under these criteria, designated sex offender POs with mixed caseloads can have as many as 150 cases, depending on the type of offenses for which offenders were convicted. (Appendix II provides an explanation of how PO caseload limits are derived.)

With the exception of one PO, the caseloads of the designated sex offender POs were in compliance with Vermont statutory limits as of September 27, 2010, (see figure 2).⁸ The PO whose caseload exceeded the statutory limit did not currently supervise any sex offenders; however, all cases assigned to him for active supervision were supervised at the more intensive level of supervision (i.e., risk management) and he was subject to a 45-offender caseload limit. This PO's caseload was 51 as of September 27, 2010—13 percent higher than the statutory limit.

⁷Per the DOC Field Service Executive, more intensive supervision is defined as risk management supervision.

⁸The statute does not define the term caseload. For purposes of this audit, we adopted DOC's characterization of the types of cases that require active supervision as making up the 45 caseload limit. This definition excludes offenders that are assigned to a PO, but who do not require the same level of effort as active supervision, such as those offenders that are incarcerated, supervised in another state, or have an outstanding warrant. See appendix III for the categories of offenders that are and are not considered as requiring active supervision by POs.

Figure 2: Caseload of DOC's 29 Designated Sex Offender POs, as of September 27, 2010^a



^aNot all of the cases supervised by designated sex offender POs are sex offenders.

^bTwo of the three POs with over 45 cases did not exceed the statutory limit because they had mixed caseloads (caseload with more than one supervision level). The statute allows mixed caseloads to be higher than 45 cases under certain circumstances.

Note: Percentages do not add to 100 percent due to rounding.

In addition to the designated sex offender POs, seven other POs supervised a total of eight sex offenders. DOC field office management provided a variety of reasons for such assignments, including that the offender would be best served being supervised by a PO specializing in mental health, domestic violence or substance abuse issues. These appear to be legitimate reasons for having certain sex offenders be supervised by POs that have not been designated to supervise sex offenders. However, DOC did not have written criteria for when such assignments should occur. Written criteria would make circumstances of such assignments more consistent from office to office and reduce the possibility that the assignment of other POs to supervise sex offenders could be used to manipulate caseload levels.

Accuracy and Completeness of DOC Caseload Monitoring Reports Could Be Improved

The monitoring of DOC caseloads to ensure that they are within statutory limits is primarily the responsibility of PO supervisors at DOC's local probation and parole offices. DOC's district managers, the DOC Field Service Executive, and others at DOC's central office also periodically review PO caseloads. According to the supervisors of the sex offender POs in

the four offices we visited, they either use the Historic Resource Allocation Report as the primary mechanism for reviewing PO caseloads and supplement that information by reviewing the Officer Caseload Report or vice versa. A DOC central office official also stated that they used these two reports as well as the Query By Example (QBE) report. The PO supervisors told us that they did not generally use the QBE report. According to DOC central office officials, these three reports, taken together, reveal a truer picture of a PO's caseload than just one of these reports alone. The following summarizes the information in each of these reports.

- **Historic Resource Allocation Report** – the report is available at a summary and detailed level. The summary report totals the number of cases assigned to each PO at a particular field office, as well as the number of cases that are currently unassigned. The Historic Resource Allocation Report differentiates between the cases that are actively supervised in the community and the cases that do not require significant ongoing action on the part of the PO. The latter are recognized as administrative cases and include offenders with outstanding warrants and offenders supervised in another jurisdiction (i.e., cases coded as out of state). In addition, the report includes some, but not all, offenders assigned to a PO who are incarcerated.
- **Officer Caseload Report** – the report lists all offenders assigned to a particular PO. The report includes and identifies offenders that are incarcerated as well as those who are in various administrative statuses. Although this report is generated for a specific PO, a system anomaly sometimes results in other POs' cases being listed in the report generated for a particular PO.
- **QBE Report** – the report provides information on offenders assigned to a particular probation and parole office, listing all offenders in alphabetical order. To review individual PO caseloads, the information needs to be copied into an MS Excel[®] spreadsheet and sorted by PO. Like the Historic Resource Allocation Report, the QBE report differentiates between the cases that are actively supervised in the community and the cases that do not require significant ongoing action on the part of the PO (i.e., administrative cases). In addition, the report includes some, but not all, offenders assigned to a PO who are incarcerated.

The Historic Resource Allocation Report was the only report that identified a PO's active caseload total, so we assessed whether this number was correct.⁹ As shown in Table 2, in the vast majority of cases, our analysis showed that the actual active number of offenders assigned to POs did not equal the active caseload total per the Historic Resource Allocation Report (the median difference between the actual active caseloads and caseloads per the Historic Resource Allocation Report was five cases). In 10 out of 29 cases (34 percent), the actual number of active cases could be accurately derived by reviewing other reports (i.e., QBE or Officer Caseload Report). However, in the other 19 cases such a review was not sufficient to accurately determine the active caseload number and more extensive research, such as discussions with the applicable POs and review of data in the DOC system, was required to identify the actual number of cases actively supervised by the POs in the community.

⁹See appendix IV for a sample of the summary level Historic Resource Allocation Report.

Table 2: Comparison of the Designated POs' Caseloads in the DOC Historic Resource Allocation Report and Actual Active Cases

PO	Active Caseload per DOC Report	Reason for Differences			Actual Active Caseload	Comments
		Incarcerated Offenders	Data Errors	System/Report Anomaly		
PO-1	42	(5)			37	
PO-2	39	(1) - a	1 - a		39	a. Offender was incarcerated, but also incorrectly coded with an outdated administrative code
PO-3	19	(5)			14 ¹	
PO-4	34	(7)		1 - a	28	a. One offender was omitted from the report due to an unexplained error in the system
PO-5	25	(2)			23	
PO-6	45	(11)			34	
PO-7	36	(3) - a	3 - a (1) - b (29) - c 0 - e 0 - f	0 - d	6	a. Offenders were incarcerated, but also incorrectly coded as administrative cases b. Discharged offender whose case was not closed c. Cases in which administrative codes were omitted d. One case supervised in another state, but listed on a work crew in VT – omitted from the report for an unexplained reason; no affect on the total, if included in the report would be counted as an administrative case e. Eight cases were coded as administrative cases, but with an incorrect administrative code f. Assignment of six offenders not recorded in system, but they were warrant cases so there is no effect on the active caseload total
PO-8	44	(10)	(7) - a (1) - b 0 - c		26	a. Offenders' reassignment to another PO not reflected in system b. Case in which administrative code was omitted c. Assignment of offender was not changed in the system, no affect on the caseload total as it was an administrative case
PO-9	29	(4)	2 - a (2) - b 1 - c		26	a. Offenders incorrectly coded as administrative cases b. Cases in which administrative codes were omitted c. Offender coded with an outdated administrative code in error
PO-10	33	(5)	(1) - a (1) - b 1 - c		27	a. Discharged offender whose case was not closed b. Case in which administrative code was omitted c. Assignment of offender not recorded in system
PO-11	30	(6) - a	1 - a 1 - c 1 - d 1 - e	(1) - b	27	a. Six offenders were incarcerated and one of six also was incorrectly coded as having an outstanding warrant and was counted as an administrative case b. Offender incarcerated in another state, but listed as under active community supervision in VT ² c. Offender incorrectly coded as administrative case d. Assignment of offender not recorded in system e. Offender coded with an outdated administrative code in error

PO	Active Caseload per DOC Report	Reason for Differences			Actual Active Caseload	Comments
		Incarcerated Offenders	Data Errors	System/ Report Anomaly		
PO-12	34	(4)		(3) - a (1) - b	26	a. Offenders incarcerated in another state, but listed as under active community supervision in VT ² b. Furlough offender on escape status shows as active case in report
PO-13	35	(5)			30	
PO-14	18	(3)	(1) - a (1) - b 1 - c		14 ¹	a. Discharged offender whose case was not closed b. Case in which administrative code was omitted c. Offender incorrectly coded as administrative case
PO-15	33	(5)	(1) - a		27	a. Case in which administrative code was omitted
PO-16	65	(3)	2 - a		64 ³	a. Offenders incorrectly coded as administrative cases
PO-17	36	(5)			31	
PO-18	39	(2)		(1) - a (1) - b	35	a. Offender incarcerated in another state, but listed as under active community supervision in VT ² b. Case in which administrative code was omitted
PO-19	115	(6)		(1) - a (5) - b 1 - c	104 ³	a. Offender incarcerated in another state, but listed as under active community supervision in VT ² b. Cases in which administrative code was omitted c. Offender incorrectly coded as administrative case
PO-20	35	(1)	1 - a		41	a. Offender coded with an outdated administrative code in error b. Offenders (all on probation with work crew sentences) were omitted from the report
PO-21	54	(3)			51 ⁴	
PO-22	37	(6)	1 - a (2) - b		30	a. Assignment of offender not recorded in the system b. Cases in which administrative codes were omitted
PO-23	36	(2)	(1) - a	(1) - b	32	a. Case in which administrative code was omitted b. Offender incarcerated in another state, but listed as under active community supervision in VT ²
PO-24	35		(1) - a 1 - b		36	a. Discharged offender whose case was not closed b. Offender incorrectly coded as an administrative case c. Offender (on probation with work crew sentence) was omitted from the report
PO-25	37	(7)			30	
PO-26	35	(9)			26	
PO-27	32	(4)	1 - a		29	a. Offender incorrectly coded with an outdated administrative code
PO-28	40	(3)			37	
PO-29	37	(2)	1 - a		36	a. Assignment of offender not recorded in the system

¹The PO is supervising youthful offenders so the caseload is limited to 25 offenders.

²These are offenders who remain under Vermont probation or parole supervision though they have been incarcerated by another jurisdiction.

³The POs' caseloads were within the statutory limit because the POs had mixed caseloads, which the statute indicated could exceed 45 cases under certain circumstances (see appendix II).

⁴The PO's caseload exceeded the statutory limit of 45 cases.

The following provides additional detail on each category of the differences noted during our review of the designated sex offender PO caseloads.

- **Incarcerated offenders shown as active cases** – 28 POs (97 percent) had active caseloads on the Historic Resource Allocation Report which had to be adjusted because of how certain types of incarcerated offenders are categorized in the report. Specifically, offenders who are incarcerated under the following scenarios are shown as active cases in the Historic Resource Allocation Report: offenders who are (1) incarcerated because of a violation of probation or parole, (2) serving time on a split¹⁰ sentence, but also have an open probation case, and (3) detained in jail while still having an open probation case.¹¹ Although the active caseload total in the report includes these incarcerated offenders, it is possible to utilize other reports to identify and subtract these offenders from the active caseload total to derive an adjusted caseload number. According to a DOC central office official, there are pending changes to the DOC system that would prevent cases of currently incarcerated offenders from being counted as cases actively supervised in the community in the Historic Resource Allocation Report.
- **Data errors** – 17 POs (59 percent) had data errors in offenders’ records that affected how the total active caseload number on the Historic Resource Allocation Report was calculated. The inaccuracies or delays in offender status updates caused some cases to be counted incorrectly. Among the errors in offender records were (1) offenders incorrectly coded as being supervised in Vermont or out of state, (2) offenders incorrectly coded as having, or not having, an outstanding warrant, (3) incorrect PO assignments, and (4) offenders whose discharge was not recorded in the system. In addition, in five cases, offenders’ records contained an obsolete code that caused the case to be incorrectly counted as an administrative case. The number of such errors that resulted in an incorrect PO caseload ranged from one to thirty-three and the untimely status updates varied from 1 day to more than a year.
- **System/report anomaly** – In the case of 9 POs (31 percent), anomalies in how the DOC system accounts for certain types of cases in the

¹⁰A split sentence is a sentence in which an offender serves a part of it at the incarceration facility and the remainder of the sentence on probation in the community.

¹¹Appendix III provides a comparison of how certain types of cases are treated in calculating the designated sex offender PO caseload versus how they are counted in the Historic Resource Allocation Report.

Historic Resource Allocation Report caused (1) some offenders to be omitted from the report or (2) some offenders to be listed as being under active supervision when they did not meet the criteria for this designation. In the case of omissions, DOC could not always explain why the offenders were not included in the report. For example, seven offenders who were on active probation or parole and at the same time had work crew sentences were not included in the report. In the case of offenders incorrectly shown to be in the POs' active caseloads, most pertained to offenders incarcerated in another state while remaining on probation or parole for their Vermont crimes. DOC central office officials stated that such cases need to be coded differently in the system to be recognized as administrative cases, however, the system did not have a specific code for this circumstance. In at least one other case, an offender was also incorrectly listed as part of the active caseload because he had escaped from a furlough and there was no code in the Historic Resource Allocation Report to account for his current status.

The accuracy, completeness, and clarity of the DOC Historic Resource Allocation Report as well as the other reports used to monitor caseloads were hindered by a DOC system that users characterized as old, cumbersome, not easily modifiable, and largely undocumented. In 2005, DOC commissioned an outside study seeking improvement of its information technology (IT). According to this study "DOC has experienced some IT system failures and will continue to do so with increasing frequency, duration and severity."¹² DOC has requested funding for the implementation of a new system. As of December 13, 2010, this funding request was still under consideration.

While DOC is encumbered by system limitations, such limitations can be somewhat mitigated by effective manual controls, such as written procedures specifying the timing and responsibility of offender related updates and training in how the system works. However, the four offices that we visited did not have written procedures outlining the process and timing of offender status updates. Also, personnel at the local offices stated that they have not had training in the system. Instead, these staff members were self-taught or relied on the ad hoc assistance of more experienced staff members.

Accurate reporting is critical to ensuring PO caseloads stay within statutory limits. This is especially important considering that the DOC central office

¹²Vermont Department of Corrections. *Functional Analysis and Technical Planning Project*. MTG Management Consultants, 2005.

and field office officials expect the number of sex offenders under community supervision to grow, since it is current DOC policy not to recommend discharge of such offenders from probation. As the number of sex offenders supervised in the community increases so will the pressure facing DOC to manage the caseloads of the designated sex offender POs within statutory limits. Without reports that can be relied upon to clearly and accurately show the number of active cases, DOC increases its risk that PO statutory caseload limits will be exceeded.

POs Supervising Sex Offenders Largely Had Received Training in Sex Offender Management

POs who supervise sex offenders largely received training in sex offender management, as required by 28 VSA §106. About half of the POs supervising sex offenders took all four of the DOC sex offender management courses and about three-quarters took at least half of the courses. In addition to sex offender management, it is important that the POs who supervise sex offenders be skilled in other essential supervision activities. To that end, DOC is in the process of developing a training curriculum for all POs (the sex offender management courses are part of the overall curriculum). Although DOC has made progress in developing this training curriculum and implementing the courses called for in the curriculum, the Department has not formulated an implementation strategy to ensure that it is carried out in a timely manner.

According to the American Probation and Parole Association,¹³ the effectiveness of specialization is greatly increased by regular and specific training on issues pertaining to sex offender case processing and management. Training is essential so that all levels of staff understand the specific issues inherent in managing sex offenders. In accordance with 28 VSA §106, sex offenders are required to be supervised by probation and parole officers trained in the management of sex offenders.

According to a DOC training and treatment official, DOC had four courses that encompass the department's sex offender management training – Sex Offender Profiles, Sex Offender Risk Assessment, Sex Offender Pre –

¹³*Managing Adult Sex Offenders on Probation and Parole: A Containment Approach* (American Probation and Parole Association, 1996).

Sentence Investigations, and Sex Offender Supervision. Table 3 describes each of the four sex offender management courses.

Table 3: Description of DOC's Sex Offender Management Courses

Course Title	Description of the Course
Sex Offender Profiles	This class provides (1) an introduction to the typologies and characteristics of sex offenders and comparison of the similarities and differences within the sex offender population, (2) a discussion of female and developmentally disabled sex offender cohorts, and (3) an overview of services available at the Department of Corrections for treatment and supervision of sex offenders and a review of the available sentencing options.
Sex Offender Risk Assessment	This class prepares correctional staff to obtain certification for the use of two risk assessment instruments, Static – 99R and Vermont Assessment of Sex Offender Risk, which are used to determine the risk of sex offenders and to place sex offenders in sex offender treatment programs.
Sex Offender Pre-Sentence Investigations	This class focuses on improving correctional staff techniques to interview sex offenders and their family and friends in order to (1) obtain a social and sexual history of a sex offender and (2) break through sex offenders' denial and minimization. The training also provides correctional staff with tools for writing the summary and recommendation for a pre-sentence investigation report, including techniques on incorporation of the two sex offender risk assessment instruments. The course attendees can obtain certification in sex offender pre-sentence investigation.
Sex Offender Supervision	This class focuses on the community supervision of sex offenders and highlights the differences from standard supervision practices. The participants learn how to identify risk behavior and utilize interventions. The course addresses visits, field visits, violations of community supervision and use of polygraph as supervision tools.

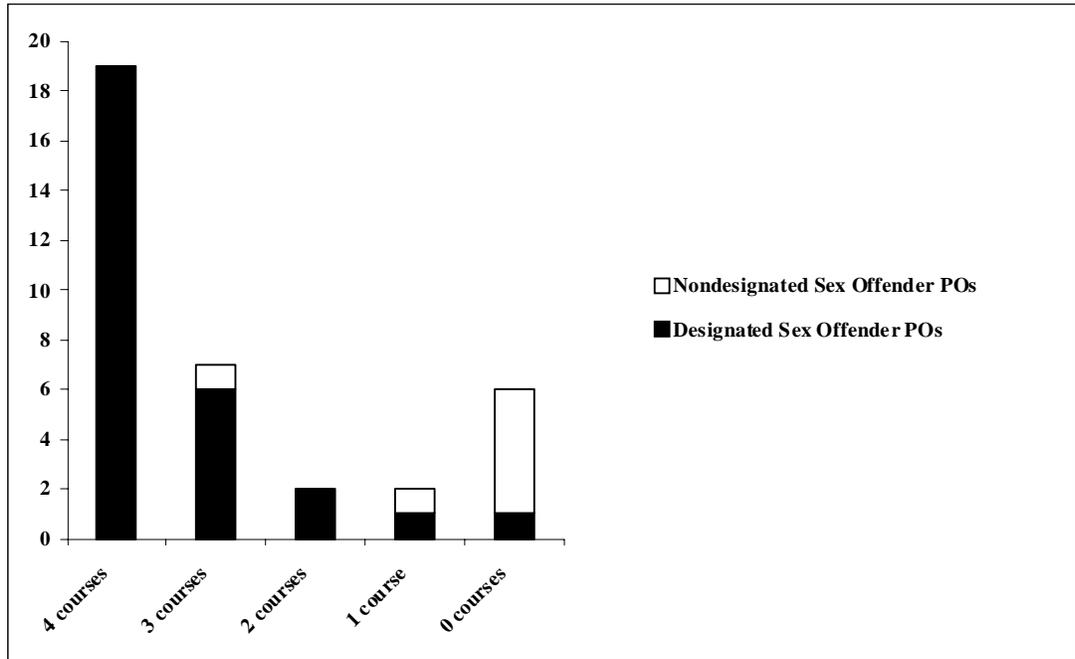
As of September 2010, we identified 36 POs supervising sex offenders or authorized to supervise such offenders.¹⁴ Out of these 36 probation officers 29 took at least half of the sex offender management training courses as of August 18, 2010¹⁵ – 19 POs took all of the courses.

As shown by Figure 3, three-quarters of the POs who have taken fewer than two courses were not designated as sex offender POs. These POs supervised a total of 7 sex offenders. About 66 percent of the designated sex offender POs who supervised the vast majority of sex offenders had taken all of the courses.

¹⁴Out of these 36 POs, 29 were designated sex offender POs and seven were POs who did not specialize in sex offender supervision. Six of the seven POs that did not specialize in sex offender supervision were responsible for one sex offender. The other PO had two sex offenders on his caseload.

¹⁵Some POs have taken sex offender management courses subsequent to August 18, 2010 – the date of the training reports that we received from DOC.

Figure 3: Number of DOC Sex Offender Training Courses Taken by 36 POs Supervising Sex Offenders or Authorized to Supervise Such Offenders^a (as of August 18, 2010)



^aOne PO does not currently supervise any sex offenders, but has been designated as a sex offender PO.

DOC does not have a written requirement for POs to undergo sex offender management training before they are assigned to supervise sex offenders. However, both DOC central office management and field office officials told us that they expect POs that supervise sex offenders to take the four sex offender management training courses. These officials explained that the training might not be offered at the time when a PO is designated to supervise sex offenders. In such cases, POs are expected to take the sex offender management courses as they become available.

POs provided various explanations for why they had not taken one or more of the sex offender courses. For example, according to one of the designated POs, he had not taken the Sex Offender Pre-Sentence Investigation course because he had not been writing sex offender pre-sentence investigation reports. However, now that he was about to start writing such reports, he planned to take this course. Other sex offender POs noted that they had been supervising sex offenders in the community for less than a year and had not had an opportunity to take all four courses as of August 18, 2010.

While specialized sex offender training is important it is also critical that POs be trained in other aspects of their profession (e.g., arrest techniques, the Interstate Compact¹⁶) to improve their skills and knowledge. Moreover, DOC Policy 101 (Human Resource Development) calls for the Department to have education and training requirements pertaining to basic PO competencies. According to DOC, the Department has been focused on advancing the competency of its field and facility staff and having standardized practices throughout the state.

Since October 2009, DOC has been working on the development of a PO curriculum and has almost completed its design. The curriculum draft identifies a set of required classes, including such modules as basic training, central training and specialized training. Some of the classes are still in development, but DOC has made strides in this area. For example, a draft of the “Probation and Parole Officer’s Training and Resource Manual” was posted to the DOC internal website in September 2010. This training manual includes duty specific chapters, standardizing field practices and supervision. The manual includes components of online testing and check of understanding, and is intended to serve as a knowledge base for obtaining a DOC training certification. As of the middle of December 2010, the manual was still in draft and was undergoing an internal review.

Although DOC has made progress in developing its general training program for POs, DOC has not laid out the tasks, milestones, and resources necessary to implement the curriculum and manual once they become final. Implementation strategies are important in order to clearly outline the requirements and timing of training that are intended to help ensure that DOC’s POs have the skills and knowledge to apply effective supervision techniques. Training in basic PO competencies, in conjunction with specialized sex offender management training, can help raise or maintain the skills and knowledge of DOC’s designated sex offender POs.

Conclusions

As of the time of our review, the designated sex offender PO caseloads were almost always in accordance with statutory requirements. Specifically, 28 of

¹⁶The Interstate Compact for Adult Offender Supervision is a formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders.

29 designated sex offenders POs were assigned caseloads in accordance with these requirements. However, DOC report deficiencies and data errors hinder the department's caseload monitoring capabilities. This is especially important because an expected increase in the number of sex offenders under DOC community supervision could bring additional caseload pressures on the department. DOC's monitoring and reporting deficiencies were often attributed to a system that is old and cumbersome to use or modify. While DOC has requested funding for a new system, there are steps that could be taken before a new system is approved and implemented to improve the accuracy of its reports, such as introducing system training and establishing written procedures and standards for updating offender records in the DOC system.

The vast majority of POs supervising sex offenders had attended all or part of the four DOC courses on sex offender management. In addition, DOC is in the process of formalizing a general training curriculum related to overall PO competencies. Both types of training are critical for improving and maintaining the quality of community-based supervision by the designated sex offender POs. At this time DOC has not developed an implementation strategy for its planned curriculum. Such a strategy would help ensure that DOC's training plans are effectively and consistently applied.

Recommendations

We recommend that the Commissioner of the Department of Corrections:

- Develop criteria for when it is appropriate to assign sex offenders to be supervised by POs who do not specialize in sex offender management.
- Develop a report that tracks and clearly shows whether POs' caseloads are within statutory limitations or modify an existing report to provide such information.
- Require probation and parole offices to establish written procedures for updating offender records in the DOC system, which would include responsibilities and standards related to the timely updating of offender records in the system.
- Develop and implement system-specific training for field office personnel.

-
- Expeditiously devise an implementation strategy for its planned PO training curriculum and the Probation and Parole Officer's Training and Resource Manual, outlining the tasks, milestones, and resources needed for their effective rollout.

Management Comments and Our Evaluation

The Commissioner of the Department of Corrections provided written comments on a draft of the report on January 3, 2011, which are reprinted in appendix V.

In his response, the Commissioner of the Department of Corrections did not explicitly agree or disagree with the overall findings of the report or its recommendations. However, in his letter, the Commissioner listed some actions that the Department is planning to take in response to our findings. For example, he reported that caseload reports continue to be modified to show whether PO caseloads are within statutory limits, although the process is hindered by the DOC system. In other cases it was not always clear whether DOC intended to implement a recommendation. For example, DOC did not comment on our recommendation that it develop and implement system training. We continue to believe that DOC's implementation of our recommendations is key to addressing the problems outlined in this report.

In accordance with 32 VSA §163, we are also providing copies of this report to the Secretary of the Agency of Administration, Commissioner of the Department of Finance and Management, and the Department of Libraries. In addition, the report will be made available at no charge on the State Auditor's web site, <http://auditor.vermont.gov/>.

Appendix I

Scope and Methodology

In addressing both of our objectives, we reviewed (1) the state's statutory requirements related to designated sex offender POs' caseloads and training of the POs supervising sex offenders, (2) DOC directives, and (3) DOC's reports to the Vermont Legislature and other documentation. In addition, we researched publications by the American Probation and Parole Association, Center for Sex Offender Management, and other experts in sex offender supervision.

In planning our work with respect to the first objective, we held meetings with district managers and PO supervisors at four local probation and parole offices and performed walkthroughs of how offender records are created and updated in DOC's system. DOC identified 29 POs designated to supervise sex offenders, for which we then obtained information related to their caseloads from three different sources: (1) the DOC system, (2) the 29 designated sex offender POs themselves, and (3) DOC's caseload monitoring reports.

First, we reviewed a DOC electronic data extract from the department's system that contained records of all offenders with open community supervision cases, excluding the offenders who as of September 27, 2010, were incarcerated or detained. The DOC file extract was reviewed for invalid or garbled data and was considered valid to use for the purposes of this audit. We did not perform validation of all data elements in the extract, such as names, dates of birth, offense codes or offenders' legal statuses. We used this extract to identify sex offenders under DOC community supervision. To confirm the validity of the completeness of our analysis, we compared the DOC file extract to an extract from the Vermont Criminal Information Center's (VCIC) Sex Offender Registry (SOR). The purpose of this comparison was to determine whether any sex offenders listed in the SOR file as being under the DOC community supervision were omitted from the DOC file and none were found. However, the SOR record of 28 sex offenders were found to be in error mainly because the SOR recorded the offenders as being supervised by DOC in the community when they had been discharged from DOC supervision or were incarcerated. We informed both VCIC and DOC of our results, but did not perform additional audit procedures to determine the cause of these errors because it was not the focus of our audit.

Second, we contacted the designated sex offender POs and obtained lists of all offenders assigned to them – those under active community supervision as well as those not actively supervised (i.e., incarcerated, with outstanding warrants or supervised out of state).

Appendix I

Scope and Methodology

Lastly, DOC provided us with the summary of the Historic Resource Allocation Report for each probation and parole office, which listed the POs' caseloads as of September 27, 2010. We also reviewed other reports, such as the QBE report, to obtain detailed information on each of the designated sex offender PO's cases.

We compared information from all three sources, focusing on the accuracy of the active supervision caseload totals in the Historic Resource Allocation Report, and followed up on the inconsistencies with POs, PO supervisors, district managers and central office personnel.

In addressing our second objective, DOC provided training records from its training system. We performed procedures that indicated that these records were reliable for our purposes, which included confirmation of the training records with selected POs. Then we identified all POs who supervised sex offenders as of September 27, 2010, according to the DOC file extract, and reviewed their training records.

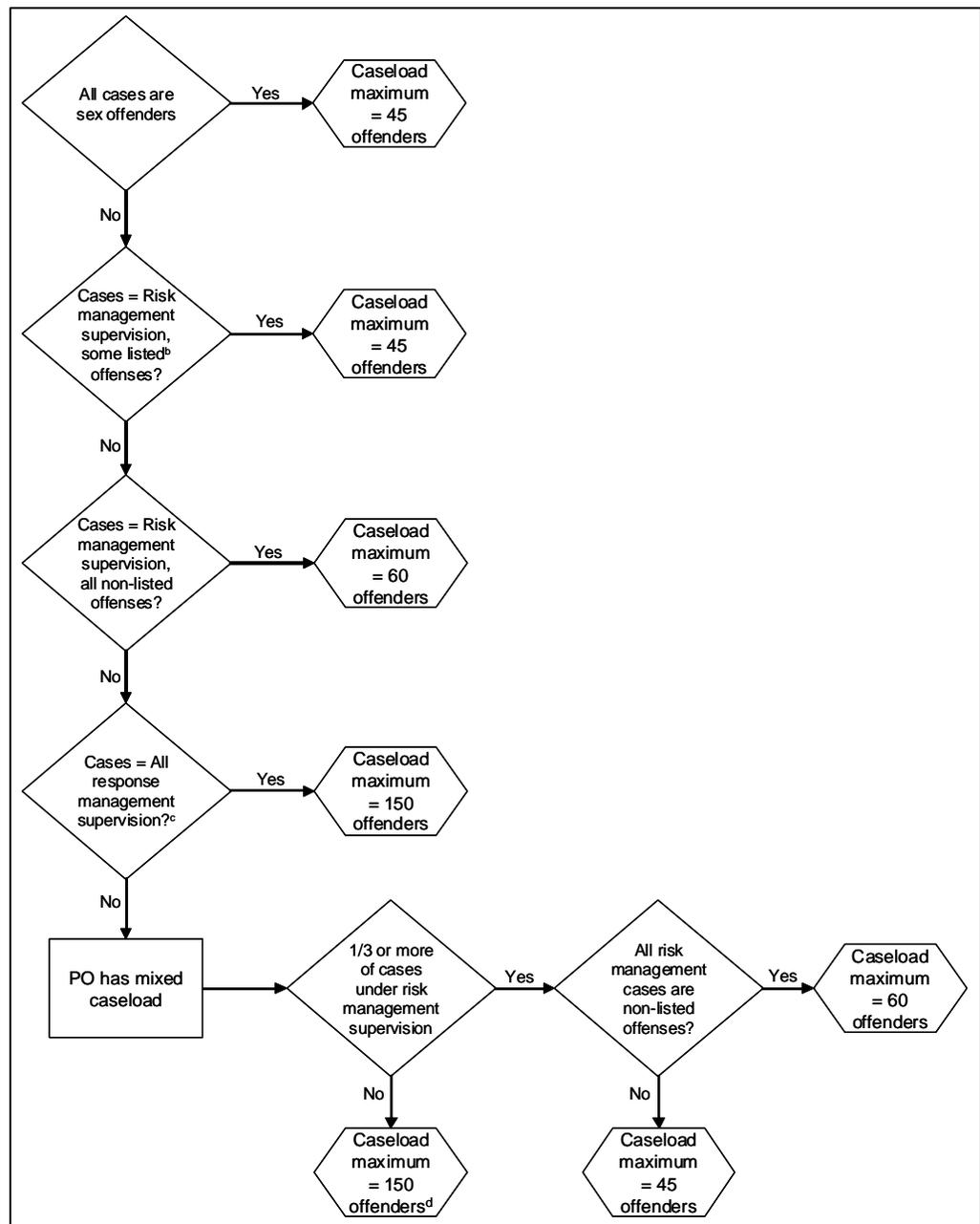
We performed our work between July 2010 and mid-December 2010 at DOC's central office in Waterbury and the probation and parole offices in Rutland, Burlington, Brattleboro and Bennington. Except for the exception described below, we conducted this performance audit in accordance with generally accepted government auditing standards, which require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The standard that we did not follow requires that our system of quality control for performance audits undergo a peer review every three years. Because of fiscal considerations, we have opted to postpone the peer review of our performance audits. Notwithstanding this exception, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II

Factors that Limit the Caseload Levels of POs

Figure 4 was developed based on a review of the relevant statutes (13 VSA §105 and §106) and discussions with DOC central office officials.

Figure 4: Diagram Illustrating the Factors that Limit the Caseload Levels of DOC POs^a



^aThis diagram does not include POs that supervise administrative cases.

^bListed offenses are defined in 13 VSA §5301(7) and DOC Directive 371.09.

^cCan be any combination of listed and non-listed offenses.

^dNo more than 45 of these cases can be under risk management supervision for listed offenses.

Appendix III

Parameters of the Historic Resource Allocation Report vs. Active Caseload

Table 4: Comparison of Whether Certain Types of Cases Are Considered to Require Active Supervision Versus How They Were Treated in the Historic Resource Allocation Report

Types of Cases	Active Cases Included in 45 caseload limit	Counted as Active Case in Summary of the Historic Resource Allocation Report
Probation (active, in the community)	Yes	Yes
Parole (active, in the community)	Yes	Yes
Re-entry/Conditional reentry	Yes	Yes
Home confinement	Yes	Yes
Medical furlough	Yes	Yes
Reintegration furlough	Yes	Yes
Treatment furlough	Yes	Yes
Pre-approved furlough	Yes	Yes
Work crew sentence while on probation, parole or furlough	Yes	Sometimes ^a
Intermediate sanction – pre-approved furlough	Yes	Yes
Incarcerated on violation of probation	No	Yes ^b
Incarcerated on violation of parole	No	Yes ^b
Incarcerated (in jail – split sentence)	No	Yes ^b
Incarcerated (in jail in VT – split sentence & open probation)	No	Yes ^b
Incarcerated (in jail in another jurisdiction & open probation)	No	Yes ^b
In jail – detained in VT (probation/parole)	No	Yes ^b
In jail – detained in another state (probation/parole)	No	Yes ^b
In jail – detained (furlough)	No	No
Incarcerated (in jail – straight sentence)	No	No
Warrant	No	No
Interstate Compact cases (Probation/parole – supervised in Vermont)	Yes	Yes
Interstate Compact cases (Probation/parole – supervised in another state)	No	No

^aOffenders who received work crew sentence while on probation, parole or furlough were not always listed on the Historic Resource Allocation Report of their POs. DOC could not explain the reasons for such omissions.

^bAccording to a DOC central office official, cases in this category should not be included in the active caseload count. Changes to the database are pending.

Appendix IV

Sample of a Summary Historic Resource Allocation Report

VDOC Resource Allocation Report

Rutland CCSC : All ages on 9/28/2010
 Reported: Fri Nov 19 15:12:53 EST 2010

Officer	Total Counts of Person Assigned in parentheses, Count without 'Admin' cases																Total	
	Unknown	Phone PRO	STD PAR/PRO	REP PRO	ADM PRO	RM PAR/PRO	SEX	DV	HomeDet	HomeConf	Reentry	SCS	PAF	PW	RF	MF		TF
-UNASSIGNED,	6																	7
						1	35 (29)				6							42 (36)
						14 (13)		1 (0)			12		9					36 (34)
						15 (14)		1 (0)			17		7		1	1		42 (40)
			1															1
			1			19 (18)		4 (2)			12				2			38 (35)
						11		1	3									15
						19 (17)					7		7				3	36 (34)
						25 (24)					9		9					43 (42)
						12 (11)		28 (24)			12				1			53 (48)
						18 (16)		1 (0)			4		4				1	28 (25)
						21 (16)		3 (2)			14				1			39 (33)
						2 (0)												2 (0)
						31			11		11							53
						1	34 (31)				3							38 (35)
						16 (14)		22 (19)			3			1				42 (37)
Total	6	0	2	0	0	205 (187)	70 (61)	75 (62)	0	0	110	0	37	0	5	0	5	515 (475)

Admin Type	Unknown	Phone PRO	STD PAR/PRO	REP PRO	ADM PRO	RM PAR/PRO	SEX	DV	HomeDet	HomeConf	Reentry	SCS	PAF	PW	RF	MF	TF	Total
OOS						6	5											11
WARRANT						12	4	13										29
none	6		2			187	61	62			110	0	37	0	5	0	5	475
Total	6	0	2	0	0	205	70	75	0	0	110	0	37	0	5	0	5	515

Please note:

Due to minor differences in selection criteria and data completeness, tabulations of categorical data may show some variance in total population counts.

This table includes an 'Unknown' status column. The persons listed in this column have inconsistent data which indicates that they are assigned to the site, but do not have data showing a valid legal status on the reported date. In many cases, this may be errant data from incomplete or improper processing of booking slips, but it is not possible to correct it automatically. If it was corrected at a later date, it will still show for dates prior to its correction.

NOTES:

- A Each line is a summary of a PO's caseload (the names have been redacted). The columns indicate the number of offenders assigned to a PO by supervision type (e.g., RM = risk management supervision) or the type of crime (e.g., SEX = sex offense). We did not assess the accuracy of the supervision or crime types contained in this report.
- B This is the total number of cases assigned to a PO—it includes cases that are both under active supervision and those that are administrative cases (e.g., warrant cases and offenders supervised out of state) that do not require active supervision.
- C The number in the parenthesis indicates the total number of cases assigned to the PO that require active supervision (e.g., excludes administrative cases, such as offenders supervised out of state).

Appendix V

Response of the Commissioner of the Department of Corrections



State of Vermont
Department of Corrections
103 South Main Street
Waterbury, VT 05671-1001
www.doc.state.vt.us
January 3, 2011

[phone] 802-241-2442
[fax] 802-241-2565

Agency of Human Services



Mr. Thomas M. Salmon
State Auditor
Office of the State Auditor
132 State Street
Montpelier, Vermont 05633-5101

Dear Mr. Salmon:

This letter is in response to your audit of the Department of Corrections' sex offender probation and parole officers' caseloads, as required by Section 43 of Act 1 (2009). Within your cover letter, you sought my concurrence or disagreement with your findings, conclusions, and recommendations, and what, if any actions Corrections plans to take in response to your recommendations.

As evident by your report, we are committed to ensuring that sex offender caseloads comply with statutory requirements. In the absence of sufficient database supports needed to monitor caseload capabilities, we continue to implement quality controls to improve upon the integrity of our data. As part of this quality assurance process we will issue a new written procedure for updating sex offender records. We will also monitor compliance with this process on a monthly basis through our quality assurance unit.

Caseload ratio reports continue to be modified to show whether probation officers' caseloads remain within statutory limits. It should be noted that in the absence of sufficient database supports, this is a labor-intensive process.

To address the need for some sex offenders to be supervised by a non-designated sex offender probation officer, written criterion will be issued. Such steps are intended to promote consistency and accountability in the case assignment process.

Regarding the need for staff training, the audit revealed that approximately 66 percent of the designated staff who supervised the majority of sex offenders had attended all of the required training courses. To date, 87 percent of designated sex offender probation officers have attended all of the required training courses. By the spring of 2011, the plan is to have all designated sex offender probation officers current with the required training. Annual trainings will continue to be offered, and required as part of the pending PO curriculum.

Regarding the PO training curriculum, this process is slated for implementation by April 2011.

Given the public safety issues involving the supervision of sex offenders, I appreciate your review and recommendations. Updates regarding the initiatives listed above are available upon request.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Andrew A. Pallito
Commissioner

