Report to the Idaho State Legislature

on

Child Sexual Abuse Crimes

July 1, 1989 through June 30, 1990

Submitted By

Attorney General

Larry EchoHawk

I submit herewith to the Idaho Legislature the annual child sexual abuse report required under Idaho Code § 67-1405.

As always, the Report portrays a picture of great human sadness and tragedy. Once again, it convinces me that the State of Idaho must adopt firm measures to deal with child sexual abusers.

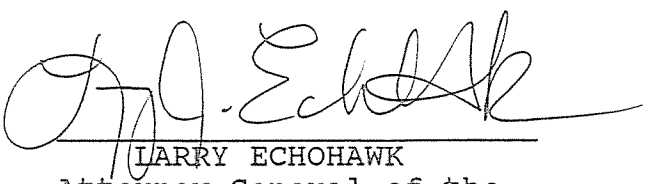
One can no longer argue that further information is needed to guide legislative deliberations. The subject has been studied five times in the last two years. Each study reenforces the conclusions of the ones before.

One can no longer argue that we need more time to let the 1988 and 1989 packages of child abuse legislation take hold. The conclusion of this study, a full year after those legislative packages have been in effect, is that nothing has really changed.

The incontrovertible fact is that only two in five child sexual abusers ever serve hard time in the state prison system. Three out of five child sexual abusers are back on the streets after completing the six-month Cottonwood program or after serving an average of three months in the county jail.

A particularly distressing finding of this Report is that one in six offenders has had prior convictions--some as many as six or seven--and that many offenders were abusing more than one child at the time they were apprehended. These figures are only the tip of the iceberg since the researchers did not have access to the sealed presentence investigation reports.

A final caution. Legitimate questions have been raised by knowledgeable experts who reviewed drafts of this Report regarding the completeness of its data, especially in those counties where lack of funding made it impossible to conduct on-site inspections of the county records. Because the accuracy of the data is of such critical importance to local law enforcement officials, I am instructing my staff to immediately contact each district judge, county prosecutor and county clerk to verify the data contained herein. I will issue a supplemental report containing a county-by-county profile when the data have been verified.



LARRY ECHOHAWK
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SUMMARY

This year's Report to the Legislature concludes that dispositions of child sexual abuse offenders have reached a plateau in most categories.

* The number of cases, trials, convictions and acquittals have all stayed relatively constant over the past year.

* 16.6% of convicted child sexual abusers were sentenced directly to the state prison system--up slightly from 16.2% last year.

* 55.9% of convicted child sexual abusers were sent to the 120-180 day rider program at Cottonwood--up slightly from 51.8% last year. However, only 45% of convicted child sexual abusers remained in the prison system this year after completing the Cottonwood program--down from 53% last year.

* 28% of convicted child sexual abusers received withheld sentences, suspended sentences, or local jail sentences--down slightly from 32% in the same categories last year.

* The report identified one in six child abusers as a repeat offender or abuser of multiple victims--an extraordinarily high number, given the fact that the researcher did not have access to the sealed presentence investigation reports where such information is contained. One-third of the repeat offenders received no hard time in prison at all.

* The average length of sentence served by the 41% of child sexual abusers sent to the state prison system is 5.3 years. For those child sexual abusers who are incarcerated at the county level (22%), the average sentence is 94 days in the county jail. The remaining 37%, with minor exceptions, served time only in the 120-180 day rider program at Cottonwood.

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METHODOLOGY

1. The Test Year; Dispositions vs. Filings.

This report covers all child sexual abuse cases disposed of in Idaho in the twelve-month period from July 1, 1989 to June 30, 1990. By contrast, the report submitted to the Legislature in 1990 tracked all cases filed in the 24-month period from January 1, 1988 to December 31, 1989. The decision to track all cases disposed of, rather than all cases filed, in the test period flows from the nature of a report that is to be made on an annual basis.

The 1990 report was able to look back two years in time and to draw upon three other contemporaneous reports: the annual report by the Department of Health and Welfare (H&W); a special study conducted through a grant by the H&W Division of Family and Children's Services (FCS Report); and a report by the Administrative Office of the Courts. In addition, as envisioned by the enabling statute, information was collected from five agency data bases: Health and Welfare, Department of Law Enforcement, county prosecutors, the Administrative Office of the Courts, and the Commission on Pardons and Parole.

The 1990 report determined that a one-year study could not track a significant number of cases from the date of filing all the way through to the disposition, incarceration and eventual release from prison. Thus, the present report does not attempt to analyze front-end data from early contacts with the Department of Health & Welfare, or data dealing with eventual discharge by the Commission on Pardons and Parole. The Department of Health

and Welfare is working on and will soon publish a special study to determine the number of child sexual abuse reports that are made to the Department, the number that turn out to be "substantiated," the percentage of substantiated reports that result in arrests and the filing of criminal charges, and the reasons why some seemingly substantiated reports do not find their way into the criminal justice system. The Health and Welfare Report, since it is not an annual report and need not be linked to any single test year, might be an appropriate vehicle to follow individuals in the data base from the caseworker's first incident report all the way through to final disposition and sentencing by the courts.

2. Other Resources.

Last year's study also determined that information available from the Department of Law Enforcement and from county prosecutors and sheriffs was too incomplete to be useful. This year was no different. The present report, therefore, does not focus on arrests by sheriffs or filings by prosecutors.

This Report focuses instead on the final disposition of each case by the criminal justice system. Accurate information on incarceration of convicted offenders is available from the Department of Corrections, an agency not mentioned in the enabling legislation. However, in the nature of things, the Department of Corrections has data only regarding offenders in the Department's custody; it has no data on defendants who are not convicted at all, or on those who are never sent to the Department.

Thus, Department of Corrections information is supplemented with information gleaned from reports filed by district judges with the Administrative Office of the Courts. Reports were filed in about 72% (186/258) of the cases disposed of and a fifth of the filed Reports lacked some essential information. Information missing on these reports was retrieved either by on-site inspection of court records or by requesting court clerks to phone in the data.

3. Procedure Used in this Report.

The Report concludes, as it did last year, that until the Idaho court system is fully computerized statewide, there is no substitute for individual data-gathering in all 44 counties. Due to the fact that no funds were appropriated for this project, it was not possible to do an on-site inspection of files in all 44 counties. Nor was it deemed cost-effective to do so. The six largest counties were visited in person, as were a dozen others within a day's driving distance of Boise or within a short distance of other counties visited. The counties visited on-site accounted for 77% of the cases identified in last year's FCS report. The remaining counties were contacted by mail and county clerks were asked to locate child sexual abuse cases and to provide the information by phone. The information provided by phone from these counties accounts for the remainder of the data base. The accuracy of this information was cross checked against the reports of the district judges, which were available in approximately three-fourths of the cases, including many cases in counties not visited on-site. In addition, staff at Cottonwood

supplied a list of the evaluation recommendations for all inmates completing the Cottonwood program during 1990. The Cottonwood reports, in turn, were correlated with Department of Correction records provided by the Commission on Pardons and Parole. These records indicate how district judges disposed of each defendant after he completed the Cottonwood program. The information regarding this largest group in the Report (55.9% of abusers were sent to Cottonwood) is thus extremely reliable.

The Report has also cross checked and individually accounted for all discrepancies between judges' reports, Cottonwood data, Department of Corrections data and information derived from on-site inspections and personal phone conversations with court clerks. As the transmittal letter notes, the completeness of the data cannot be guaranteed for those counties in which an on-site inspection was not performed.

4. The Study's Target Group.

The purpose of this Report is "so that future policy decisions of the Legislature [dealing with the problem of child sexual abuse] can be based upon a more substantial body of evidence." 1989 Sess. Laws, ch. 382, 1, p. 952. Given that purpose, it is important that the net not be thrown too broadly or too narrowly in circumscribing the target group to be studied. This involves many legal judgment calls.

The Report tracks all cases disposed of on charges of violating Idaho Code § 18-1506 (sexual abuse of a child under 16) and Idaho Code § 18-1508 (lewd conduct with a minor). The automatic application of other statutory categories is less

satisfactory. Thus, the decision was made to include cases under Idaho Code § 18-1507A (possession of sexually exploitative material for other than a commercial purpose) only if the defendant engaged in direct child sexual abuse, not mere possession of child pornography.

Similarly, the policy decision was made to include cases under Idaho Code § 18-1501 (injury to children) only if a review of the record clearly indicated that sexual abuse was involved. It is true that more serious sexual abuse charges are frequently plea bargained down to § 18-1501 because of that statute's 1-10 year sentencing limits. However, the statute also encompasses many forms of child abuse that are not sexual in nature. While there is room for reasonable minds to differ, it is important that these legal judgment calls be made properly or the Report will include cases that are not relevant to the Legislature's stated purpose.

Finally, the most difficult judgment calls arise in the context of Idaho Code § 18-1601(1)(statutory rape). A mechanical inclusion of all violations of this statute is troublesome, as fact patterns encountered in this study reveal. A 16-year-old who has been sexually abused by her father since age 5 is still the victim of child sexual abuse. A 16-year-old married woman who is raped by a burglar entering her apartment is not. Nor is the 17-year-old who engages in consensual sex with a 21-year-old boyfriend. Again, reasonable minds may differ on these legal judgment calls, but they should be made consistently from year to year so as to avoid wide swings in data.

The same is true of the always vexing problem of multiple filings. The data base for this study would contain 29 additional cases had judgment calls not been made to exclude duplicate filings which were thought to distort the data. In one county, a prosecutor may file two separate cases if the defendant is abusing two children in his family. In another county, the prosecutor may choose to combine these incidents in a single complaint. Counting this situation as two cases tends to distort the data, because the abuser gets sentenced only once. Counting it as one case also tends to distort the data for the individual judge and for the prosecutor whose case does not appear to have been successfully prosecuted. The wrong judgment call in this arena can effect wide swings in the resulting data base.

VICTIM/ABUSER PROFILES

1. The Age of the Victims.

Local court files and district judge disposition reports generally contain some information on the age of the victim. The records reveal that, while many victims of sexual abuse are teenagers (99 out of 234), the majority (58%) are not. In fact, more than one out of every five victims is seven years of age or younger.

2. The Abuser's Relation to the Victim.

Abuser profiles do not fit the stereotype of strangers offering candy to children: only 3.6% of the abusers were strangers (7/196). To the contrary, fully half the child sexual abusers were members of the child's own family--divided equally among natural parents, step-parents, and other relatives (grandparents, uncles, older siblings). A remaining 47% were friends, acquaintances, neighbors or baby-sitters of the child victims. Conclusions on this issue, as on the age of the victims, are incomplete because the necessary information was missing in one-fourth of the reports; there is no reason to suspect the missing information is other than random or will affect these conclusions.

3. Women Offenders.

Nationwide it is reported that a significant percentage of child sexual abusers are women. This Report, for the first time, was able to test this hypothesis in Idaho. The Report identified eight abusers who are women. In four instances, charges against these women were dropped once the companion case against a male

abuser was completed, perhaps indicating that the woman was perceived as an unwilling abettor rather than the primary perpetrator. In two other instances, the woman received a withheld judgment or a suspended sentence. Only two of the women were sentenced to prison, each for 30 months.

4. Repeat Offenders.

It is difficult to determine how many abusers are repeat offenders or have victimized more than one child. Accurate information on this matter is contained only in the presentence investigation reports, which are sealed and confidential both under the rules in effect during this study period and those soon to be adopted by the Idaho Supreme Court as part of the new Public Records Law. Partial information is, however, available from several sources: occasional comments in judges' disposition reports; probation violation data; and multiple filings (naming multiple victims) if they occur within the single study year.

Using these crude tools, the study happened upon 35 abusers who had abused more than one child. This number includes 16 abusers known to have prior convictions for child sexual abuse, some having as many as 6 or 7 such convictions. In addition, 4 abusers had prior charges or admitted to prior abuse; 12 had multiple victims at the time they were apprehended; and 3 others violated probation during this same study year by again sexually abusing a child. Thus, at least one in six abusers has multiple victims. It must be stressed, however, that this picture is very incomplete; it is only by chance that one pierces an otherwise closed veil of confidentiality. One must assume that the problem

of repeat offenders is much larger than is revealed by these essentially fortuitous discoveries of data.

PROSECUTION

1. Number of Case Dispositions and of Dismissals.

The Report tracks 258 child sexual abuse case dispositions in the Idaho court system during the last half of 1989 and the first half of 1990. This apparent 9 percent increase over the total number of cases tracked in last year's report (237) is due to the fact that this year's report includes multiple dispositions of single offenders--especially those charged in more than one county--and also tracks the dispositions of offenders who violated probation. Adjusting for these two differences, the number of child sexual abuse cases in the Idaho court system has held relatively constant over the past two years.

2. Dismissals.

The number of cases dismissed this year (38) is virtually identical to last year (37).

The Report was able, for the first time, to explore in detail the reasons for case dismissals. Unfortunately, this effort was hampered by the fact that nearly half the cases contained no explanation in the record as to why they were dismissed. We strongly recommend that prosecutors and judges articulate reasons for motions to dismiss and that such motions not simply state they are granted "in the interests of justice" or similar words.

Turning to the dismissals that did provide an explanation, several patterns emerged. One major category was that in which

one case was dismissed after the defendant pled guilty or was convicted in another case. This happens when crimes occur in two different counties or when separate charges are filed for crimes against separate victims. Oftentimes, the cases are both before the same judge and all information on both crimes is available to the judge and is taken into account at the time of sentencing on the first case. For reasons of judicial economy, it makes sense for the prosecutor to dismiss the remaining charges if the outcome of further proceedings would not really change the sentence imposed on the offender. The down-side is that dismissing the other charges leaves the seriousness of the sex abuser's conduct understated on his permanent record.

Another sizeable category of case dismissals involves cases in which the victim and/or the victim's family recants the original story or otherwise refuses to cooperate in prosecuting the case.

A final group of dismissals involves situations where the case simply cannot go forward. For example, in one case, the statute of limitations had expired; in another the victim turned 18 on the day of the statutory rape; in another the defendant committed suicide. Finally, there were cases which allegedly could not go forward as a result of recent evidentiary decisions of the Idaho Supreme Court.

There is a high correlation between the reasons this Report identified as the cause of dismissals, and reasons identified by the Department of Health and Welfare in its recent study of why charges are not filed at all. The articulation of these reasons

provides a high degree of confidence that prosecutors are not lightly dismissing cases or refusing to file them.

3. Trials.

The number of trials has varied hardly at all in the last two years. This year's report identified 27 child sexual abuse cases that went to trial, resulting in 18 convictions and 9 acquittals. Last year's report tracked 31 trials, with 21 convictions and 10 acquittals, for an almost identical two-thirds conviction rate each year.

4. Guilty Pleas and Plea Bargains.

During this report year, a total of 211 defendants were convicted of child sexual abuse crimes, 18 as a result of jury trials. The remaining 193 defendants pled guilty. Plea bargain agreements were reached in 61% of these cases, while the remaining defendants (39%) pled "straight up" to the charges filed against them. A detailed study of the causes and results of these plea bargains would require a one-on-one interview of the prosecutor and defense attorney in each case. Such a study is beyond the scope of this report.

SENTENCING

This report studies sentencing data from 211 cases, i.e., the number remaining after the 38 dismissals and 9 acquittals are subtracted from the 258 total cases in the study. See Table below.

CHILD SEXUAL ABUSE REPORTS

	1990 Report	1991 Report
Total Dispositions	237	258
Dismissals	37	38
Not Guilty Verdicts	9	9
Remaining Dispositions	191	211
Withheld Judgments	26	16
Suspended Sentences	33	28
Immediate Jail	2	14
Immediate I.S.C.I	31	35
Cottonwood Dispositions		
I.S.C.I.	38	51
Suspended Sentence	33	63
Pending	28	4
(Total)	(99)	(118)
Total Sentences	191	211

1. Withheld Judgments.

The 1989 Legislature amended Idaho Code § 19-2604 to provide that crimes of child sexual abuse can no longer be expunged from the abuser's record. Thus, there is little incentive for abusers to seek withheld judgments. Last year's report predicted that

the number of withheld judgments would tend to decrease as abusers and their attorneys began to realize there was no longer much incentive to seek withheld judgments.

This prediction appears to have come true. In the twelve months since the effective date of the amendment on July 1, 1989, only 7.6% of child sexual abuse cases have been disposed of by withheld judgments (16/211). (Most included some local jail time as a condition of the withheld judgment.) This compares to an 18.8% rate of withheld judgments (45/240) in the 18-month period prior to this study.

2. Immediate Suspended Sentences.

The FCS report found that in 1988-89 child sexual abusers received immediate suspended sentences more than 28% of the time (68/240). Last year's report found that dispositions by immediate suspended sentence had decreased to 17% (33/191). This report finds still fewer instances in which sentencing judges have granted immediate suspended sentences to convicted child sexual abusers. During the twelve months of this study, the rate of immediate suspended sentences dropped yet again to 13.7% (29/211). The majority of these immediate suspended sentences also included some local jail time.

3. Jail Time.

Withheld judgments, suspended sentences and immediate jail time are the three least severe sentencing options, focusing on local control of the abuser and emphasizing local counseling and work-release programs. Together in last year's report they amounted to 32% of the dispositions of convicted abusers. This

year, they account for a combined total of 27.5% of the sentences imposed on convicted abusers.

4. Immediate Incarceration in Prison.

During the study period, 35 of the defendants convicted of child sexual abuse were sentenced immediately to the Department of Corrections, for a rate of 16.7% (35/211). This rate varies little from the 16.2% (31/191) rate noted last year.

5. Cottonwood Dispositions.

The most significant trend in sentencing of child sexual abusers in recent years is the increased use of the 120-180 day rider program at Cottonwood. In the FCS study commencing in 1988, 40.8% of committed abusers (98/240) were sent to the Cottonwood facility for a 4-6 month evaluation after initial sentencing. In last year's study, tracking sentences during calendar year 1989, 51.8% (99/191) of convicted offenders were sent to Cottonwood. This year, the rate of Cottonwood dispositions has risen to 55.9% (118/211). (For purposes of this report, those who serve a 120-day rider program at the county jail participating in local sex therapy programs are included in the Cottonwood disposition data.)

The post-Cottonwood disposition rate has fluctuated somewhat in recent years. In 1988, approximately 40% of sex abusers sent to Cottonwood were kept in the prison system after completion of the Cottonwood program. Last year's report to the Legislature found that slightly more than half (53.5%) of the offenders were kept in the prison system after completion of the program. This

year, the percentage of those remaining in the prison system decreased back to 44.7%.[1]

This compares to an almost exactly 50/50 recommendation rate of probation/prison in the Cottonwood evaluation reports. The difference is due to the fact that, in several instances, district judges granted the abuser probation after completion of the 120-180 day Cottonwood program rather than relinquishing jurisdiction and allowing the original prison sentence to be carried out.

Court personnel familiar with these data attribute the decreased post-Cottonwood imprisonment rate to the fact that district judges no longer send convicted abusers to Cottonwood who have no potential at all for returning to the community. The district judges have learned that Cottonwood is an evaluation program, not a therapy program, and that the program is not to be used merely to establish a "base line" profile of the abuser.

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[1] At the conclusion of the exact 12-month reporting period of this study, only 46 dispositions were known out of the 111 abusers sent to Cottonwood. To validate the data from this small group, the dispositions of the other 65 abusers were also recorded and included in this report.

6. Incarceration.

Previous reports have found wide discrepancies in the number of child sexual abusers who actually spend time behind bars. This has been due to differences in terminology in the different reports. Some studies have considered only "hard time" spent in prison facilities of the Department of Corrections. Other studies have included time spent in the 120-180 day rider program at Cottonwood. Still other studies have included time served in county jails as well.

In this study, we have identified 35 abusers who went straight to prison after sentencing (16.6%). An additional 118 abusers were sent to the Cottonwood program. Upon completion of the Cottonwood program, 51 of the abusers were kept in the state prison system.

Thus, the Report found 86 child sexual abusers (40.8%) who were sentenced to hard time in the state prison system, either immediately upon sentencing or after completing the Cottonwood program. An additional 63 (29.9%) completed the 120-180 day rider program at Cottonwood and then were returned to the county of origin (where some may have served additional jail time as a condition of their probation). Finally, we have identified 45 other abusers (21.3%) who served jail time, either immediately after sentencing, or after Cottonwood, or as a condition of a withheld judgment or suspended sentence. As mentioned earlier, only 13 offenders were found who were not sentenced to any confinement at all.

SENTENCING VARIATIONS

The only prior sexual abuse study that attempted to study variations in sentencing patterns was that performed by the Administrative Office of the Courts in 1990. The study provided valuable insights into overall sentencing length, but did not have a sizeable enough data base to test for key variables. The detailed data provided this year in the judges' reports, the county records and the Department of Corrections printouts has made it possible for the first time to pursue these matters in depth. In the discussion that follows, sentences are calculated in terms of the minimum term imposed. Thus an abuser who receives a 3-year determinate, 7-year indeterminate sentence is said to have received a 3-year sentence; at the end of 3 years, he is eligible for a parole hearing.

1. Length of Sentences.

The average length of sentence served by a child sexual abuser sent to the state prison system during the test period was 5.3 years. The 35 sexual abusers who were sent directly to prison received slightly longer sentences (6 years on average) than the 51 abusers who were sent to prison after completing the Cottonwood program (4.7 years).

The averages conceal wide individual variations. In the test year, one life sentence was imposed, and 24 other abusers received sentences in excess of five years. Thus, only one convicted child sexual abuser in nine received a sentence in excess of five years. By contrast, 63 abusers went on probation after completing the 120-180 day program at Cottonwood. Still

another group of 58 abusers received either withheld sentences or suspended sentences or minimal county jail sentences. This group of 58 abusers, on average, served 94 days in the county jail.

2. Repeat Offenders.

The Report attempted to correlate the severity of sentence with the abuser's pattern of repeat offenses. As mentioned earlier, the Report focused both on actual repeat offenders (those with prior convictions) as well as on those who admitted to prior uncharged sexual abuse, who had multiple victims at the time of their apprehension, or who violated probation by further crimes of sexual abuse during this study period.

One would expect that the criminal justice system would treat this group more severely than other sexual offenders. This expectation is borne out. Approximately 6 out of 10 abusers with multiple offenses/victims do hard time in the prison. This compares to 4 out of 10 in the overall sample. The average sentence imposed upon these offenders is 6 years, or about nine months longer than the general average. The courts also tend to impose many of the most severe sentences upon these repeat offenders. Still, of the 16 known repeat offenders, only 6 received sentences in excess of five years and 5 received either withheld judgments or suspended sentences and were released after short county jail sentences.

3. Abusers of the Very Young.

One might expect that sexual abusers of the very young might receive heavy sentences. The Report identified 43 defendants who were charged with abusing children seven years old or younger.

The popular wisdom is that it is frequently difficult to try cases where the victims are very young and unable to testify. This appears true. Here, four of the cases that went to trial yielded acquittals (all the victims were five years old or younger). Thus, only 17% of the cases yielded nearly half the acquittals: only 5 other acquittals occurred in the remaining 215 cases. Similarly, eight dismissals occurred in this small category of 43 cases, seven of them involving victims four years old or younger.

Those convicted of abusing the very young received slightly lesser sentences than the overall group. The average prison sentence imposed on this group was 4.5 years.

4. Abusers within the Family.

The Report has been able to identify the abuser's relation to the child victim in approximately three-fourths of the cases. The abuser in 72 cases was either the child's natural father or stepfather. Eight of these cases were dismissed and one resulted in an acquittal after trial. Some 36.5% of this group received prison sentences, with an average length of 5.1 years--each figure being slightly lower than the average for all abusers.

5. Sentences as a Function of the Crime Charged.

Last year's Report assumed that the criminal bar in general would perceive "L&L" (lewd and lascivious conduct, Idaho Code § 18-1508), with its potential life sentence, as a more serious charge than "sexual abuse of a minor (Idaho Code § 18-1506), with its maximum 15-year sentence. One might assume, therefore, that

those convicted of L&L would receive heavier sentences than those convicted of sexual abuse of a minor.

The hypothesis turns out to be half true. Those who are convicted of L&L and who go straight to prison receive, on average, sentences of 6.1 years, compared to an average 4.3 year sentence imposed on those convicted of sexual abuse of a minor. However, the pattern is reversed for those who go to prison after completing the Cottonwood program. Under these circumstances, those convicted of L&L receive an average sentence of 3.0 years, whereas those convicted of sexual abuse of a minor receive sentences averaging 4.3 years. The Report does not hazard a guess as to the source of this variation.

6. Severity of Sentences as a Predictor of Cottonwood Outcome.

As mentioned earlier, 45% of those who were sent to the 120-180 day Cottonwood program were kept in the state prison system after completing the program; 55% were put on probation and returned to their county of origin. The Report tested the hypothesis that those who received the heaviest sentences after trial would be the ones that would fail to complete the Cottonwood program successfully and would be sent to prison thereafter. The hypothesis is borne out. Those who are eventually sent to prison after Cottonwood had an average 4.7 year sentence imposed after trial; those who went on probation after Cottonwood had an average 3.8 year sentence.

Oddly, both groups contained abusers with very long sentences. For example, those who were granted probation after the 120-180 day rider program included two abusers with 10 year

sentences and one with a 15 year sentence. This odd result is perhaps indicative of the fact that the present system puts the cart (the district judge's sentencing) before the horse (the neutral evaluator's recommendation). When judges are presented with a thorough, professional evaluation after the abuser's stay at Cottonwood, they are sometimes willing to make major revisions in their original sentences.

CONCLUSION

The purpose of this report is to provide a "more substantial body of evidence" to guide future policy decisions of the Legislature. The Attorney General has his own policy recommendations that he is making directly to the Legislature. This report does not present such policy recommendations.

We again conclude, as we did last year, with the recommendation that the agency in charge of generating this annual report be given the resources to do the job. Funding must be made available on a permanent basis if a quality report is to be generated in the future.