

Use of “Less Restrictive Alternatives” in SPP/SDP Cases

Sex Offender Civil Commitment
Advisory Task Force
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Available Procedures for Less Restrictive Dispositions

- Stayed Commitments
- Continuances
- Dismissal without prejudice

Full Commitment

Person committed to MSOP

- Indeterminate period
- Discharge, Provisional Discharge or Transfer must go through special review board and Judicial Panel

“Stays” of Commitment

- Court commits person to MSOP
- But court “stays” commitment based on specified conditions, e.g.,
 - Comply with parole conditions
 - Participate and complete tx
- Supervision
 - Stayed commitment is technically supervised by county case manager
 - Real supervisor is usually PO

Revocation of Stay

- Stay may be revoked if person violates conditions
 - Court then executes commitment and sends person to MSOP
 - Court may consider less-restrictive alternatives, i.e., does this stay need to be revoked

Continuance

- Commitment case is continued — put on hold
 - May have specific conditions to avoid putting case back on for trial
 - E.g., participate and complete tx
 - Or may just allow either party to ask to have it put on for trial

Continuance—Examples

- Person's prison term gets extended, will have opportunity to do tx in prison
- Satisfactory arrangement for community treatment, residential placement and supervision
 - Person has sufficient remaining parole supervision

Dismissal Without Prejudice

- County dismisses commitment petition, but retains discretion to refile it
 - Use where LRA not available while case pending (Alpha residential)
 - May use where, if this LRA had been in place, Co Atty would not have filed petition

When is Stay used?

- Only with agreement of parties, including county attorney (per Commitment Rules)
- When conditions of stay and supervision are sufficient to protect public—in near and long term

Stays Used

4 times, besides Olmsted

- Anoka, Chisago, Ramsey, St. Louis
- All relied on parole conditions, parole supervision
- **All were revoked** due to violations by respondent

Limitations of Stays, LRAs

- County case managers not qualified to, don't want to, supervise SPPs/SDPs on stays
 - Where stays were tried, there was parole/probation supervision
 - stay depended on parole/probation supervision, not case manager

Limitations of Stays, LRAs

- SPP/SDP stays would require **long-term intensive supervision**
 - Parole supervision is for limited time
 - at most, 10 years
 - usually less, sometimes none (person has exhausted supervision time with violations, revocations)
 - Even ISR (Intensive Supervised Release) is less intensive than MSOP's release supervision
 - Reduces in intensity in 4 phases over 1st yr 12

Limitations of Stays, LRAs

- Lack of resources
 - Residential treatment resources
 - only 1 community *residential* SO tx program (Alpha)—not able to take people on commitments, stays or even continuances
 - Supervised *residential* settings if person in outpatient SO tx
 - Correctional halfway houses usually time limited, e.g., 60 days
 - Even greater lack of resources outside metro area

Limitations of Stays, LRAs

- Funding
- DOC funds 3-3½ slots for prison parolees at Alpha residential program (but Alpha has not taken people on stays)

Limitations of Stays, LRAs

- Lack of statutory mechanism
 - Existing stay statute (§ 253B.095) seems inapplicable for several reasons, e.g., stays limited to 18 months
 - Revocation standard, methods
- Authority for searches, emergency apprehension

County Attorneys'

Recommendations for LRAs

- **Community treatment, housing resources** — should be established (or identified and coordinated) **by state**
- **Commitment process should be two-part process:**
 - **Hearing to determine whether person meets commitment requirements**
 - **Evaluation by state entity** and recommendation to court re placement (MSOP or LRA) and the conditions of release
- **Supervision by state (MSOP-type) release agents**
- **Procedure for “Conditional Release,” revocation, termination, must be spelled out**