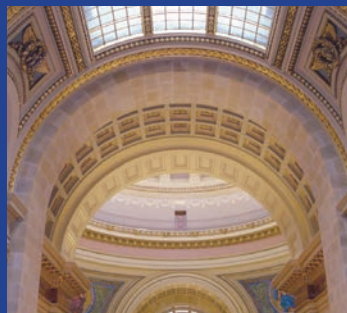


Report 13-12
August 2013

Supervised Release Placements and Expenditures

Department of Health Services

STATE OF WISCONSIN



Legislative Audit Bureau ■

Supervised Release Placements and Expenditures

Department of Health Services

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Joe Chrisman
State Auditor

August 22, 2013

Senator Robert Cowles and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Cowles and Representative Kerkman:

As requested by the Joint Legislative Audit Committee, we have completed a review of supervised release placements and expenditures. A circuit court can authorize supervised release for a sexually violent individual who has been civilly committed under ch. 980, Wis. Stats. Supervised release allows the individual to be placed in the community under the custody of the Department of Health Services (DHS).

From January 1995, when the first supervised release placement occurred, through March 2013, 96 individuals were placed into the community on supervised release. On March 31, 2013, 33 individuals were on supervised release and resided in 21 counties. We found that DHS does not have written policies for identifying a potential residence for an individual authorized for supervised release, and we recommend DHS create such policies. We also include a recommendation to improve the process used by DHS to notify victims or their families of the placement of an individual on supervised release.

From fiscal year (FY) 2009-10 through FY 2011-12, supervised release expenditures increased by 33.3 percent. In FY 2011-12, supervised release expenditures totaled \$2.8 million.

The cost of housing individuals on supervised release accounted for 21.5 percent of total expenditures in FY 2011-12, and contracts for monitoring and transportation services accounted for 45.0 percent of total expenditures. We found that the hourly rates paid by DHS for these contracted services were significantly higher than rates paid by the Department of Corrections for similar services. We provide several recommendations to reduce the cost of supervised release placements.

We appreciate the courtesy and cooperation extended to us by DHS. DHS's response follows the Appendix.

Respectfully submitted,

Joe Chrisman
State Auditor

JC/DS/ss

Report Highlights ■

***On March 31, 2013,
33 individuals were on
supervised release.***

***DHS does not have written
policies for identifying a
potential residence for an
individual authorized for
supervised release.***

***Supervised release
expenditures totaled
\$2.8 million in FY 2011-12.***

***We provide several
recommendations
to reduce the cost of
supervised release
placements.***

Statutes allow a circuit court to civilly commit a sexually violent individual to the custody of the Department of Health Services (DHS) until the court determines the individual is no longer sexually violent. Civil commitment is not a criminal punishment, but is intended to provide treatment and protect the public. An individual who has been civilly committed for at least 12 months may petition the circuit court to authorize supervised release, which allows the individual to be placed in the community under the custody and control of DHS. The circuit court may not authorize supervised release unless it determines that the individual has met five statutorily specified criteria, including that the individual has made significant progress in treatment and this progress can be sustained while on supervised release. On March 31, 2013, 33 individuals were on supervised release.

Although statutes require DHS to make a reasonable attempt to notify the victim or the victim's family about an intended placement on supervised release, concerns were raised after an individual authorized for supervised release was almost placed near the home of one of his victims. Concerns were also raised about the cost to house individuals on supervised release. Therefore, at the request of the Joint Legislative Audit Committee, we:

- evaluated the process for placing individuals on supervised release, including notifying victims or their families;
- analyzed supervised release expenditures; and

- determined the extent to which individuals violated supervised release rules specified by DHS or were convicted of criminal offenses that they committed while on supervised release.

Placements

From January 1995, when the first placement occurred, through March 2013, 96 individuals were placed into the community on supervised release.

DHS indicated that it is challenging to identify a potential residence, in part because many landlords are unwilling to allow individuals on supervised release to live on their properties. Therefore, DHS may contact one of three firms it has identified to inquire whether the firm would be willing to attempt to identify a residence that the firm could purchase and then rent to DHS. Creating written policies for identifying potential residences would help to ensure that DHS uses a consistent and formal process and considers certain factors, including the cost to rent the residence.

If a circuit court intends to place an individual on supervised release, or discharge an individual from civil commitment, statutes require DHS to make a reasonable attempt to notify the individual's victim or the victim's family. It does so with help from the Department of Corrections (DOC) and victim and witness coordinators working in district attorney offices.

DOC operates an information technology (IT) system that records and tracks information about individuals convicted of crimes in Wisconsin. A victim or the victim's family can register with the system, which allows them to be notified about changes in an individual's status or location. This information is also available online. DHS, DOC, and victim and witness coordinators indicated that DOC's IT system is the most effective way to provide information to victims or their families.

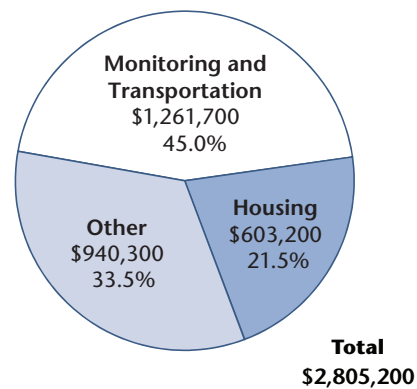
Before an individual is placed on supervised release, DHS completes tasks on a written checklist, including determining if contact information for the victim or the victim's family is in DOC's IT system. Revising this checklist to include a contact with the Department of Justice (DOJ) Office of Crime Victim Services or the relevant victim and witness coordinator would provide another means to obtain contact information for the victim or the victim's family.

Expenditures

Supervised release expenditures increased from \$2.1 million in fiscal year (FY) 2009-10 to \$2.8 million in FY 2011-12, or by 33.3 percent. In FY 2011-12, monitoring and transportation services accounted for 45.0 percent of total expenditures, and housing accounted for 21.5 percent.

Figure 1

Supervised Release Expenditures FY 2011-12



We reviewed 28 residential leases that DHS had signed and were in effect on March 31, 2013. DHS paid an average of \$1,560 per month to rent each residence. Thirteen leases were for residences that firms had purchased in order to rent to DHS. Within two years, DHS had paid rental rates that may have allowed firms to recoup their cost of purchasing some residences. For example, DHS paid \$2,200 per month to rent one residence. Over a 30-month period, its rent for this residence totaled \$66,000, which was \$19,000 more than the residence's purchase price. We recommend DHS attempt to negotiate lease terms that reduce monthly rental rates.

DHS contracts with a vendor to provide monitoring and transportation services for individuals on supervised release. Monitoring services include visits to residences in order to determine whether individuals are complying with supervised release rules specified by DHS. Transportation services include taking individuals who have been on supervised release for more than one year to treatment providers, places of employment, and other DHS-approved locations.

In FY 2012-13, DHS paid the vendor \$69.89 per hour to monitor individuals and transport them to activities that were scheduled in advance. DOC is statutorily responsible for escorting individuals outside of their residences during their first year on supervised release, unless it contracts for these services. In FY 2012-13, DOC contracted with the same vendor that provides DHS with monitoring and transportation services and paid \$30.87 per hour. Given that the same staff employed by the vendor provided similar services under both contracts, it is unclear why the hourly rates in the two contracts are so significantly different. To attempt to obtain a lower hourly rate, we recommend DHS begin the process of issuing a request for proposals for monitoring and transportation services.

Transportation for scheduled activities increased from an average of 37.0 hours per month in FY 2009-10 to an average of 59.0 hours per month in FY 2012-13, or by 59.5 percent. DHS does not have written policies for determining the amount and types of scheduled activities its staff should approve. We reviewed the scheduled activities for all 16 individuals for whom transportation was provided in December 2012. For example, DHS paid \$8,800 to transport one individual to and from all scheduled activities. We question the frequency of transportation approved for two individuals and recommend DHS develop policies for determining the frequency of scheduled activities to approve.

Outcomes

Most individuals exit supervised release one of two ways. First, a circuit court can determine that an individual is no longer sexually violent and discharge the individual from civil commitment. A total of 34 of the 96 individuals placed into the community on supervised release from January 1995 through March 2013 were discharged. Second, a circuit court can revoke an individual's participation in supervised release. A total of 33 of the 96 individuals had their participation in supervised release revoked for violating DHS-specified rules, including 4 individuals convicted of committing criminal offenses while on supervised release.

Although statutes permit an individual on supervised release to petition for discharge from civil commitment at any time, statutes do not permit any other individual or entity to file a discharge petition. From January 1995 through March 2013, individuals were on supervised release for an average of 2.5 years. As of March 31, 2013, 4 of 33 individuals had been on supervised release for more than five years. DHS believes that some of these individuals would potentially be discharged by circuit courts if they filed petitions. Individuals on supervised release may be reluctant to petition for discharge for a number of reasons, including apprehension about living without the structure and support provided by civil commitment. Given the ongoing cost of supervised release, DHS

should provide the Legislature with options, including modifications to statutes, for facilitating the discharge of individuals who may no longer meet the statutory criteria for civil commitment.

Recommendations

We include recommendations for DHS to:

- ☑ establish written policies to guide the process used to identify potential residences for individuals authorized for supervised release and the factors that should be considered, including the location of the home of an individual's victim, the cost of rent, and situations in which a firm should be contacted about purchasing and renting a residence to DHS (*p. 22*);
- ☑ contact the DOJ Office of Crime Victim Services or the relevant victim and witness coordinator before an individual is placed on supervised release to attempt to obtain contact information for the individual's victim or the victim's family (*p. 25*);
- ☑ take steps to reduce the cost of housing individuals on supervised release, including attempting to identify additional firms willing to purchase and rent residences and attempting to negotiate leases stipulating that DHS will pay reduced monthly rental rates after the first year of the leases, and report to the Joint Legislative Audit Committee by April 1, 2014, on its efforts to do so (*p. 34*);
- ☑ take steps to reduce the cost of monitoring and transporting individuals on supervised release, including immediately beginning the process of issuing a request for proposals for monitoring and transportation services and developing written policies for determining the frequency of scheduled activities to approve, and report to the Joint Legislative Audit Committee by April 1, 2014, on its efforts to do so (*p. 39*); and
- ☑ report to the Joint Legislative Audit Committee by April 1, 2014, on options for facilitating the discharge of individuals on supervised release who may no longer meet the statutory criteria for civil commitment but who are unwilling to file discharge petitions with circuit courts (*p. 46*).

Introduction ■

Civil commitment is not a criminal punishment, but is intended to provide treatment for and protect the public from sexually violent individuals.

Since June 1994, Wisconsin's civil commitment process has provided for the treatment and control of individuals who have committed a sexually violent offense and are considered to be sexually violent. Sexually violent offenses are enumerated in statutes and include first, second, and third degree sexual assault and first and second degree sexual assault of a child. An individual is considered to be sexually violent if he or she has been convicted or found to have committed a sexually violent offense and suffers from a mental disorder that makes it more likely than not that he or she will continue to engage in acts of sexual violence. Individuals who have been convicted of a sexually violent offense, juveniles who have been adjudicated delinquent for a sexually violent offense, and individuals who have been found not guilty of or not responsible for a sexually violent offense by reason of insanity or mental disease, defect, or illness may be considered for civil commitment. Civil commitment is not a criminal punishment, but is intended to provide treatment and protect the public.

Civil Commitment Process

In most cases, the civil commitment process is used to transfer sexually violent individuals from incarceration to the custody of DHS. The criteria for civil commitment as a sexually violent individual are found in ch. 980, Wis. Stats. When an individual who may meet these criteria is within 90 days of being released from a correctional facility, juvenile detention center, or mental health

facility, the agency that has custody of the individual is statutorily required to notify DOJ and the district attorney in the county in which the individual was convicted or the county in which the individual may be released. Before an individual is released, either DOJ or a district attorney may file a petition with a circuit court alleging that the individual is sexually violent.

A circuit court must determine if there is probable cause to believe an individual is eligible for civil commitment and, if so, hold a trial. If a trial determines that the individual is sexually violent, the individual is civilly committed to the custody of DHS until the circuit court determines that he or she is no longer sexually violent. Since August 2011, all civilly committed individuals have been housed at the Sand Ridge Secure Treatment Center in Mauston. Before that time, some civilly committed individuals were housed at other DHS facilities.

Statutes permit a civilly committed individual to petition the circuit court to authorize supervised release.

Statutes permit a civilly committed individual to petition the circuit court to authorize supervised release, which allows the individual to reside in the community under the custody and control of DHS. An individual may file a petition if:

- the individual has been civilly committed for at least 12 months;
- at least 12 months have elapsed since the circuit court denied the individual's previous petition to be discharged from civil commitment; or
- at least 12 months have elapsed since a circuit court revoked the individual's participation in supervised release, which can occur, for example, if the individual violated a court-ordered condition or a DHS-specified rule of supervised release.

In addition, statutes permit the director of Sand Ridge to file a supervised release petition on an individual's behalf. Such a petition may be filed at any time.

Within 12 months after civil commitment, and at least once every 12 months thereafter, DHS must appoint a mental health professional to examine an individual's mental condition and determine if the individual has made sufficient progress in treatment for the circuit court to consider whether the individual should be placed on supervised release or discharged from civil commitment. Annually, DHS is required to report on an individual's mental condition and progress in treatment to the circuit court, the

individual, DOJ, and, if applicable, the district attorney involved in the individual's civil commitment. The circuit court uses this report to help determine whether to authorize supervised release for an individual who has petitioned for it.

A circuit court may not authorize supervised release for an individual unless it determines that five statutory criteria have been met, including that the individual has made significant progress in treatment and this progress can be sustained while on supervised release. An individual on supervised release is subject to the conditions established by the circuit court and to 48 rules specified by DHS, including:

- not being within a three-block radius of the home, workplace, or school of the individual's victim, and not having any contact with the victim or the victim's family without prior approval;
- having no unsupervised contact with anyone under age 18 without prior approval;
- being subject to searches and urinalysis, DNA, blood, and other tests;
- not staying overnight in any residence other than the designated residence for supervised release without prior approval;
- not possessing or consuming alcohol or controlled substances, except by prescription;
- not using a home-based computer or accessing the internet anywhere without prior approval; and
- not purchasing or operating a motor vehicle without prior approval.

During the first year on supervised release, statutes restrict an individual to his or her residence. However, an individual may leave the residence while under the direct supervision of an escort for employment, religious purposes, and to care for basic living needs. After the first year, an individual is permitted to leave the residence without direct supervision, as long as the individual abides by the court-ordered conditions and DHS-specified rules for supervised release.

DHS indicated that there are advantages to authorizing supervised release for an individual. It believes that being on supervised release increases the likelihood that the individual will be able to transition successfully back into society. DHS indicated that individuals who have been incarcerated and civilly committed for many years and have not been on supervised release sometimes have insufficient skills to live independently in the community, limited employment prospects, and few, if any, family members and friends willing to help them adjust or provide emotional and financial support.

A civilly committed individual may also petition the circuit court for discharge from civil commitment at any time. Discharge occurs if the circuit court determines that an individual is no longer sexually violent. Although no longer in the custody of DHS, discharged individuals must comply with certain statutory requirements, such as registering as sex offenders with DOC and wearing GPS tracking devices for the remainder of their lives.

This report focuses on civilly committed individuals on supervised release, and not on all adjudicated sex offenders. We did not assess judicial decisions that resulted in civil commitment, placement of individuals on supervised release, or discharge of individuals from civil commitment. However, we interviewed DHS, DOC, the DOJ Office of Crime Victim Services, and six victim and witness coordinators who work in district attorney offices. We reviewed DHS's civil commitment and supervised release policies and the placement process. We analyzed expenditures and reviewed DHS's contracts and other agreements related to housing, monitoring, transporting, and supervising individuals on supervised release. We also attempted to assess outcomes for individuals on supervised release.

Civilly Committed Individuals

From June 1994 through March 2013, 484 individuals were civilly committed.

From June 1994 through March 2013, 484 individuals were civilly committed by circuit courts. As shown in Table 1, 351 individuals remained civilly committed on March 31, 2013, including 33 on supervised release and 8 held in DOC's custody because, for example, they had been arrested for or charged with committing crimes while civilly committed. As of March 31, 2013, a total of 133 individuals had been discharged from civil commitment by circuit courts.

Table 1
Status of Civilly Committed Individuals¹
 March 31, 2013

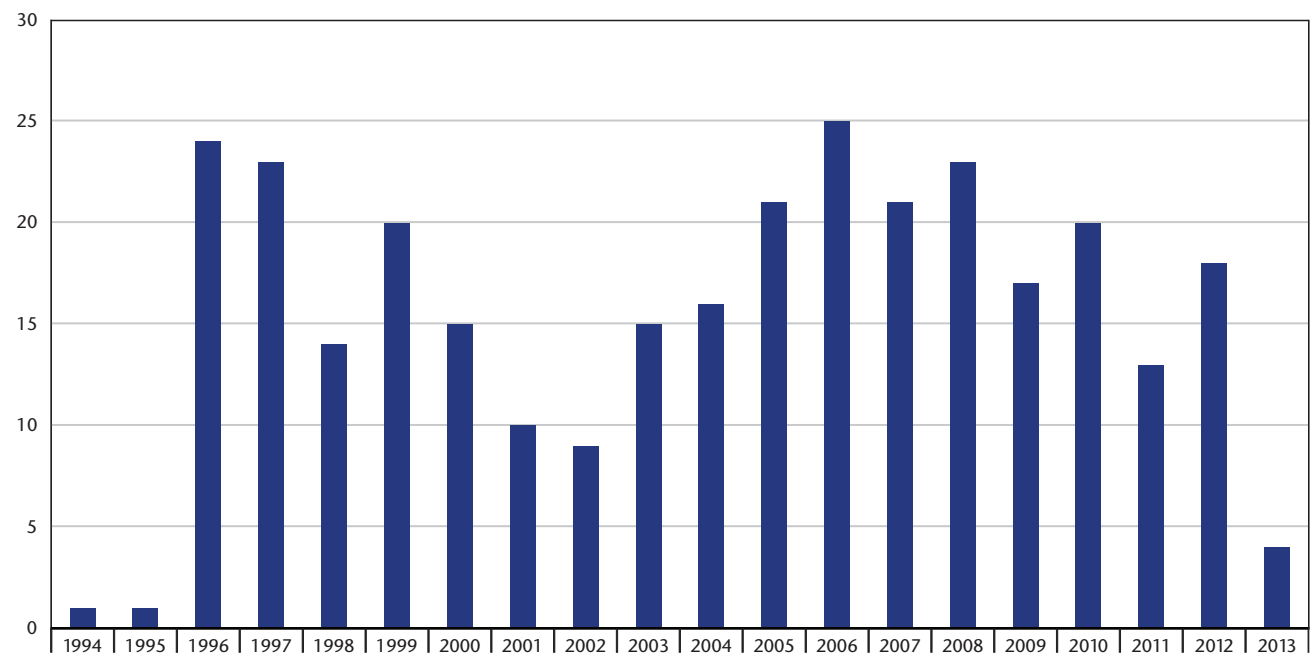
	Number	Percentage of Total
Civilly Committed		
At Sand Ridge	310	64.0%
On Supervised Release	33	6.8
In DOC Custody	8	1.7
Subtotal	351	72.5
Discharged		
From a DHS Facility	75	15.5
From Supervised Release	34	7.0
Because of Death	24	5.0
Subtotal	133	27.5
Total	484	100.0%

¹ Includes all civilly committed individuals from June 1994 through March 2013.

Figure 2 shows the year in which each of the 310 individuals at Sand Ridge on March 31, 2013, was civilly committed. All 310 individuals were men. In March 2013, their average age was 50. The youngest individual was 27 years old, and the oldest was 81 years old.

Figure 2

Year of Civil Commitment for Individuals at Sand Ridge on March 31, 2013



Before being civilly committed, these 310 individuals had resided in 50 different counties. Table 2 shows the ten counties where almost two-thirds of the individuals had last resided before being civilly committed.

Table 2

**County of Last Residence for Individuals at
Sand Ridge on March 31, 2013**

County	Number	Percentage of Total
Milwaukee	84	27.1%
Dane	27	8.7
Brown	17	5.5
Kenosha	11	3.5
Racine	11	3.5
Waukesha	11	3.5
Manitowoc	10	3.2
Rock	10	3.2
Winnebago	10	3.2
Outagamie	9	2.9
Subtotal	200	64.5
All Others	110	35.5
Total	310	100.0%

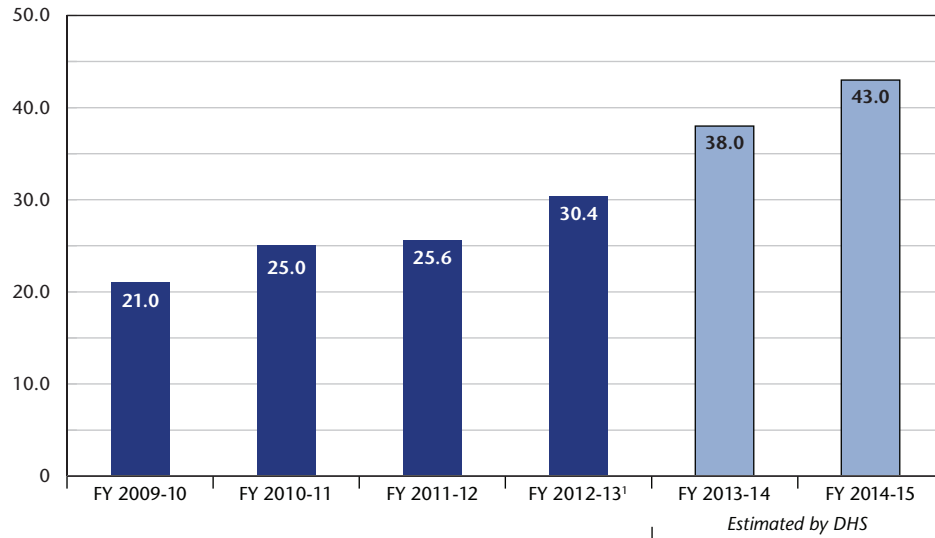
Individuals on Supervised Release

From January 1995, when the first supervised release placement occurred, through March 2013, circuit courts authorized supervised release for 96 individuals who were placed into the community. The 96 individuals were on supervised release for an average of 2.5 years.

The average number of individuals on supervised release in a given month increased from 21.0 in FY 2009-10 to 25.6 in FY 2011-12.

As shown in Figure 3, the average number of individuals on supervised release in a given month increased from 21.0 in FY 2009-10 to 25.6 in FY 2011-12, or by 21.9 percent. DHS estimates that the average number of individuals on supervised release in a given month will increase to 38.0 in FY 2013-14 and to 43.0 in FY 2014-15.

Figure 3

Average Number of Individuals on Supervised Release in a Given Month

¹ Through March 2013.

According to DHS, the increasing number of individuals on supervised release is explained, in part, by recent research that has determined that certain types of individuals are less likely to commit additional sexual offenses than had previously been thought. Informed by this research and a revised diagnostic tool, mental health professionals conduct examinations of civilly committed individuals. Circuit courts consider the results of these examinations in determining whether to authorize supervised release.

If an individual petitions for discharge, if the district attorney believes the circuit court is likely to grant the petition, and if the individual agrees to be on supervised release, a stipulated agreement may be drafted by the district attorney, the individual, and the individual's attorney. Under a typical stipulated agreement, which must be approved by the circuit court, the individual agrees to withdraw the discharge petition and instead be placed on supervised release. Circuit courts approved stipulated agreements for 23 of the 33 individuals who were on supervised release on March 31, 2013. Twenty of the 23 individuals were placed on supervised release since January 2009.

***On March 31, 2013,
33 individuals were on
supervised release.***

All 33 individuals on supervised release on March 31, 2013, were men. The youngest was 28 years old, the oldest was 75 years old, and the average age was 52 years old. In total, the 33 individuals resided in 21 counties. Table 3 shows the seven counties where multiple individuals resided while on supervised release.

Table 3

**Counties Where Individuals Resided
While on Supervised Release
March 31, 2013**

County	Number	Percentage of Total
Brown	4	12.1%
Jefferson	3	9.1
Milwaukee	3	9.1
Outagamie	3	9.1
Racine	2	6.1
Rock	2	6.1
Sauk	2	6.1
Subtotal	19	57.6
All Others	14	42.4
Total	33	100.0%

■ ■ ■ ■

Placements ■

Although the placement of individuals on supervised release into the community is primarily the responsibility of DHS, it also involves other state and local agencies. Similarly, notifying victims or their families about impending supervised release placements and discharges from civil commitment is the responsibility of DHS and other state and local agencies. Notification can be challenging if victims or their families have not provided current contact information to state or local agencies. We provide recommendations for improving the placement and notification processes.

Placement Process

If a circuit court authorizes supervised release, it selects the county into which the individual will be placed. Statutes stipulate that unless it has good cause to select a different county, the circuit court must select the county in which the individual resided when the sexually violent offense was committed. DHS is statutorily required to prepare a supervised release plan that identifies a potential residence for the individual and the individual's need for supervision, counseling, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. DHS must submit the plan to the circuit court within 90 days of supervised release having been authorized for the individual. After reviewing the plan, the circuit court can:

- approve the plan and determine that supervised release is appropriate;
- require completion of another plan for its consideration; or
- determine that supervised release is not appropriate for the individual.

DHS does not have written policies for identifying a potential residence for an individual authorized for supervised release.

We found that DHS does not have written policies for identifying a potential residence for an individual authorized for supervised release or determining a reasonable amount to pay to rent the residence. Instead, DHS uses unwritten guidelines and relies on the judgment of its staff to identify a potential residence. In addition, it consults with local law enforcement agencies and DOC's Division of Community Corrections, which supervises sex offenders in the community through probation and parole agents and, therefore, possesses relevant information about the appropriateness of potential residences.

To identify potential residences in a given county, DHS indicated that it first takes into account any local ordinances that restrict the placement of sex offenders. Based on information collected by DOC in August 2010, at least 99 municipalities had such ordinances. Some ordinances specify that sex offenders are not allowed to live within a certain distance from schools, parks, daycare centers, or recreational areas where children congregate, while others also specify that sex offenders are not allowed to live near each other. In some instances, ordinances preclude placing sex offenders within most or all areas of a municipality. When local ordinances do not prohibit multiple sex offenders from living together, DHS will consider placing two individuals on supervised release in one residence. On March 31, 2013, four residences each housed 2 offenders, accounting for 8 of the 33 individuals on supervised release at that time.

DHS indicated that it is challenging to identify a potential residence, in part because many landlords are unwilling to allow individuals on supervised release to live on their properties. Consequently, DHS typically does not identify a particular municipality in which to place an individual, nor does it typically attempt to identify a potential residence that would be convenient to meet an individual's employment or treatment needs. Instead, it uses rental advertisements, including those in online resources, to search for available residences throughout the county designated by the circuit court. DHS also typically contacts landlords who are located in the designated county and had previously rented residences for individuals on supervised release to determine if they are willing to rent again.

In addition to searching for potential residences on its own, DHS may also contact one of three firms it has identified that allow individuals on supervised release to live on their properties. In these contacts, DHS inquires whether the firm would be willing to attempt to identify a residence that the firm could purchase and rent to DHS. DHS did not identify these three firms through a public solicitation. Instead, these firms had previously rented residences for individuals on supervised release and had indicated their willingness to do so again. DHS rents residences, rather than attempting to purchase them, for a number of reasons, including that individuals may leave supervised release unexpectedly if rules are violated.

Once a potential residence is identified, DHS uses online mapping tools to help assess its appropriateness. For example:

- DHS indicated that it will not place an individual in a residence near the home of the individual's victim, if it knows where the victim lives.
- DHS indicated that it typically does not consider residences within two blocks of licensed daycare centers, schools, places of worship, parks, and other places where groups of children congregate. However, it may consider an urban residence within two blocks of a location where children congregate if, for example, a freeway runs between that location and the residence.

DOC's probation and parole agents, who supervise sex offenders, visit potential residences to evaluate their consistency with DOC's sex offender housing criteria. During a visit, an agent observes the neighborhood and notes the proximity of the potential residence to schools, parks, and other such locations. DHS considers DOC's input when determining which residence to include in the supervised release plan that it submits to the circuit court. DHS prefers not to place an individual into a residence adjacent to where children live, but it indicated that it is difficult to identify a residence that is not near where children live or visit.

DHS should develop written policies for identifying potential residences for individuals on supervised release.

Written policies would help to ensure that DHS uses a consistent and formal process for identifying potential residences and considers certain factors. For example, the policies should indicate the minimum distance between the potential residence and the home of an individual's victim, as well as between the potential residence and places where children congregate. The policies should also indicate the extent to which DHS should consider a potential residence's costs, including situations in which DHS should ask a firm to purchase a residence for DHS to rent. In addition, the

policies should indicate situations in which multiple individuals should be placed in the same residence.

☑ Recommendation

We recommend the Department of Health Services establish written policies to guide the process used to identify potential residences for individuals authorized for supervised release and the factors that should be considered, including:

- *the location of the home of an individual's victim and nearby places where children congregate;*
- *the cost of renting a residence; and*
- *situations in which a firm should be contacted about purchasing a residence and renting it to the Department of Health Services.*

Victim or Family Notification Process

Statutes require DHS to make a reasonable attempt to contact victims or their families.

A victim or the victim's family may become aware of an impending supervised release placement or discharge from civil commitment in several different ways. If a circuit court intends to place an individual on supervised release or discharge an individual from civil commitment, statutes require DHS to make a reasonable attempt to notify the individual's victim, an adult family member if the victim died as a result of the act of sexual violence, or the parent or guardian of a victim younger than 18. To facilitate this contact with victims or their families, statutes require DHS to prepare blank cards for DOJ and district attorneys to provide to victims or their families, who may choose to write their contact information on the cards and mail them to DHS. As of April 2013, DHS had contact information for 74 victims and family members, some of which it had obtained by means other than the cards.

Statutes also require DHS to notify DOC of impending supervised release placements and discharges. Before DHS attempts to contact a victim or the victim's family, it asks DOC to provide any contact information that DOC has collected. Since 1997, DOC has operated an IT system that records and tracks information about individuals convicted of crimes in Wisconsin and incarcerated in state correctional facilities. Particularly when an individual is convicted of a violent offense, all six victim and witness coordinators with whom we spoke indicated that they inform the victim or the victim's family about DOC's IT system. Registering with the IT system allows a victim or the victim's family to be notified about changes in the

status or location of the individual who committed the crime. Since 2003, victims or their families have also been able to gain online access to DOC's IT system and determine this information themselves. DHS, DOC, and the victim and witness coordinators with whom we spoke indicated that DOC's IT system is the most effective way to provide information to victims or their families.

It can be difficult to locate a victim or the victim's family if they have not registered with DOC's IT system or otherwise provided their contact information. In some instances, the crimes that resulted in an individual being civilly committed occurred before DOC's IT system began operation. In other instances, victims may have provided contact information at the time of prosecution but later moved or changed their names as a result of marriage or for other reasons and did not provide updated contact information. Victims who were children at the time of the crimes may be unaware of their ability to receive notifications.

Before a supervised release placement or discharge occurs, DHS sometimes also contacts the victim and witness coordinator in the county in which the individual is to be placed because the victim and witness coordinator may have contact information for a victim or the victim's family. Victim and witness coordinators obtain such contact information when an individual is convicted of a sexually violent offense, and they sometimes attempt to update this contact information when the individual is civilly committed, which is often many years later. Victim and witness coordinators may use various methods to locate a victim or the victim's family, such as searching telephone directories and online databases.

Although some victims or their families appreciate efforts to locate them, others indicate that they do not want to be located. On occasion, victims become upset when contacted because they are traumatized by the crimes. Victims or family members who want to be informed about impending placements and discharges are typically given the statutorily required cards that can be mailed to DHS and are informed about DOC's IT system.

A victim or the victim's family may also learn about an impending supervised release placement or discharge in other ways. First, an individual on supervised release is statutorily required to provide information about the location of the individual's residence to DOC's sex offender registry, which the public can access online. In addition, DOC must make a reasonable attempt to inform a victim or the victim's family when an individual initially registers as a sex offender and whenever the individual's residence or status changes. After discharge, an individual must provide updated

***DHS had notified
the appropriate law
enforcement agencies
about the 33 individuals
on supervised release as
of March 31, 2013.***

information about the individual's residence to the sex offender registry every 90 days for the remainder of the individual's life.

Second, before an individual is placed on supervised release, statutes require notification of the police department in the municipality in which the individual will reside and the county sheriff, unless those law enforcement agencies have chosen not to be notified. DHS had notified the appropriate law enforcement agencies about the 33 individuals on supervised release as of March 31, 2013. Law enforcement agencies determine which information to share with the public and how it will be shared. For example, before an individual is placed on supervised release, a law enforcement agency usually holds a public meeting, which DHS and DOC attend in order to provide information and address questions.

Concerns were raised after an individual authorized for supervised release was almost placed into a residence near the home of one of his victims. This victim learned about the impending placement as a result of law enforcement efforts to notify the community. DHS had not previously contacted the victim because it did not have contact information, which was also not in DOC's IT system. The victim did not receive a blank card from the victim and witness coordinator, who had not been contacted by DHS and was unaware of the impending placement. The crime committed against this victim occurred approximately 25 years ago. After DHS became aware of this victim's location, it placed the individual into a residence further away from this victim's home.

DHS has taken steps to increase the likelihood that victims or their families are informed about impending supervised release placements and discharges. Before an individual is placed on supervised release, DHS completes tasks on a written checklist, including determining if contact information for the victim or the victim's family is in DOC's IT system. DHS has a similar checklist of tasks to complete before an individual is discharged. In April 2013, DHS revised the discharge checklist, which now indicates that it should contact the DOJ Office of Crime Victim Services or the relevant victim and witness coordinator, who may have contact information for the victim or the victim's family. However, the supervised release checklist has not been similarly revised to include a requirement to contact the DOJ Office of Crime Victim Services or the relevant victim and witness coordinator.

☑ Recommendation

We recommend the Department of Health Services contact the Department of Justice Office of Crime Victim Services or the relevant victim and witness coordinator before an individual is placed on supervised release to attempt to obtain contact information for the individual's victim or the victim's family.

■ ■ ■ ■

Expenditures ■

An increase in the number of individuals on supervised release has increased supervised release expenditures in recent years. Concerns were raised about the cost to house individuals on supervised release. In addition, we found the cost to monitor and transport individuals to be the largest category of supervised release expenditures. We include several recommendations to reduce various costs of supervised release placements.

Categories of Expenditures

In FY 2011-12, monitoring and transportation services accounted for 45.0 percent of total expenditures, and housing accounted for 21.5 percent.

As shown in Table 4, supervised release expenditures increased from \$2.1 million in FY 2009-10 to \$2.8 million in FY 2011-12, or by 33.3 percent. During this three-year period, the average number of individuals on supervised release in a given month increased by 21.9 percent. In FY 2011-12, monitoring and transportation services accounted for 45.0 percent of total expenditures, and housing accounted for 21.5 percent.

Table 4

Supervised Release Expenditures, by Category

Category	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13 ¹
Monitoring and Transportation ²	\$ 775,100	\$1,007,500	\$1,261,700	\$1,075,300
Housing ³	308,300	566,900	603,200	511,400
DHS Staff Salaries and Fringe Benefits	303,700	275,600	305,800	240,900
Sex Offender Treatment	256,500	310,300	270,800	247,200
Community Corrections	121,900	153,900	141,500	129,700
First-Year Supervision	189,900	182,500	127,400	145,800
GPS Tracking	50,400	54,300	61,600	66,100
Client Needs	47,900	34,800	33,200	29,000
Support Services ²	—	—	—	38,200
Total	\$2,053,500	\$2,585,700	\$2,805,200	\$2,483,500

¹ Through March 2013.² Before FY 2012-13, support services were included in monitoring and transportation.³ Includes rent, utilities, lawn maintenance, and snow removal.

DHS incurs particular costs for first-year supervision services. During the first year, individuals may leave their residences only under the direct supervision of an escort and only for statutorily stipulated reasons, such as for employment and basic living needs. Statutes require DOC to provide these escorts unless it contracts for them, which it has done for all individuals. DHS reimburses DOC for the costs of these first-year supervision services. Unless DHS decides otherwise, individuals no longer must be escorted outside of their residences after their first year on supervised release.

DHS contracts with a vendor to provide monitoring and transportation services for individuals on supervised release.

DHS contracts with a vendor to provide monitoring and transportation services for individuals on supervised release. Monitoring, which occurs throughout the time individuals are on supervised release, includes visits to residences in order to determine whether individuals are complying with DHS-specified rules for supervised release. Transportation includes the costs of taking individuals who have been on supervised release for more than one year to treatment providers, places of employment, and other DHS-approved locations. Because most individuals are not allowed to operate a motor vehicle while on supervised release, they must be transported to locations that are not within walking distance or are not accessible by public transportation.

Other categories of supervised release expenditures shown in Table 4 include:

- housing, which includes rent, utilities, lawn maintenance, and snow removal;
- DHS staff salaries and fringe benefits associated with managing supervised release;
- sex offender treatment, which is provided to individuals by vendors under contract with DHS;
- community corrections, which includes visits to individuals' residences by DOC probation and parole agents, who are assigned to each individual on supervised release;
- GPS tracking of individuals on supervised release, which is provided by DOC;
- client needs, such as food, clothing, and furniture for individuals on supervised release; and
- support services, which are provided by a vendor under contract with DHS and include helping individuals who are unable because of disabilities or other reasons to cook, clean, and perform daily living tasks without instruction or assistance.

The average annual cost per individual on supervised release increased from \$106,200 in FY 2009-10 to \$116,100 in FY 2011-12.

As shown in Table 5, the average annual cost per individual on supervised release increased from \$106,200 in FY 2009-10 to \$116,100 in FY 2011-12, or by 9.3 percent. In comparison, DHS indicated that it spent an average of \$143,100 per individual at Sand Ridge in FY 2011-12, which is \$27,000 more than it spent, on average, per individual on supervised release and residing in the community in that year.

Table 5

Average Annual Cost per Individual on Supervised Release¹

Fiscal Year	Average Annual Cost per Individual
2009-10	\$106,200
2010-11	109,300
2011-12	116,100
2012-13 ²	115,200

¹ Excludes expenditures associated with individuals who are on supervised release but are at Sand Ridge or in DOC's custody.

² Annualized estimate, based on actual costs incurred through March 2013.

Housing

Statutes require individuals on supervised release to be placed in facilities constructed before January 2006. As of March 31, 2013, DHS did not own any of the residences where individuals on supervised release were placed.

Housing costs for individuals on supervised release increased by 95.7 percent from FY 2009-10 to FY 2011-12.

As shown in Table 6, housing costs for individuals on supervised release increased from \$308,300 in FY 2009-10 to \$603,200 in FY 2011-12, or by 95.7 percent. As noted, the average number of individuals on supervised release in a given month increased by 21.9 percent over this three-year period. The monthly rental rates for six residences included the costs of utilities, the monthly rental rates for four residences included lawn maintenance, and the monthly rental rates for three residences included snow removal.

Table 6

Housing Costs for Individuals on Supervised Release

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13 ¹
Rent	\$268,200	\$503,800	\$542,500	\$438,000
Utilities	20,100	49,200	41,700	52,400
Other ²	20,000	13,900	19,000	21,000
Total	\$308,300	\$566,900	\$603,200	\$511,400

¹ Through March 2013.² Includes snow removal, lawn maintenance, garbage pickup, and other miscellaneous services.

To examine more closely the cost to house individuals on supervised release, we reviewed 28 leases that were in effect on March 31, 2013, including:

- 20 leases for single-family residences, 19 of which each housed a single individual and 1 of which was vacant in March 2013 because DHS had signed a lease that was effective in February 2013 but had not yet placed an individual there;
- 4 leases for single-family residences that each housed two individuals;
- 3 leases for duplexes that each housed a single individual, with one side of the duplex vacant; and
- 1 lease for an apartment unit that housed one individual in a complex where a number of sex offenders live.

In addition, two individuals with severe cognitive disabilities resided in community-based residential facilities on March 31, 2013.

As of March 2013, DHS paid an average of \$1,560 per month to rent each of the 28 residences, excluding the two units at community-based residential facilities, one of which was paid for entirely by the individual residing there. The Appendix provides additional information about each of the 28 residences, including their monthly rental amounts.

DHS typically signs one-year leases and thereafter rents the residences on a month-to-month basis, typically at the same monthly rate as it had paid during the first year. Renting month-to-month allows DHS to terminate a lease if a circuit court revokes an individual's participation in supervised release or discharges an individual from civil commitment. DHS may continue the lease if it believes it to be likely that another individual will be placed in the residence within the next six months.

As noted, DHS has identified three firms that are willing to purchase and then rent residences to DHS. In March 2013, DHS rented 13 residences from the three firms, which charged an average monthly rent of \$1,880 for the 13 residences, compared to an average of \$1,283 for 15 other residences that DHS rented.

DHS paid rental rates that may have allowed firms to recoup within two years their cost of purchasing some residences.

It is reasonable to expect that firms will charge monthly rental rates that compensate them for the financial risk of purchasing properties that DHS may lease for only two or three years. However, we found that DHS paid rental rates that may have allowed firms to recoup within two years their cost of purchasing some residences, excluding closing costs and ongoing mortgage interest. For example:

- DHS paid \$2,200 per month to rent a residence that a firm purchased in the Town of Bevent for \$47,000. Over the 30-month period from October 2010, when DHS first rented the residence, through March 2013, DHS paid rent totaling \$66,000, which was \$19,000 more than the residence's purchase price.
- DHS paid \$1,800 per month to rent a residence that a firm purchased in the City of Beloit for \$32,400. Over the 27-month period from January 2011, when DHS first rented the residence, through March 2013, DHS paid rent totaling \$48,600, which was \$16,200 more than the residence's purchase price.
- DHS paid \$1,600 per month to rent a residence that a firm purchased in the City of Manitowoc for \$35,000. Over the 32-month period from August 2010, when DHS first rented the residence, through March 2013, DHS paid rent totaling \$51,200, which was \$16,200 more than the residence's purchase price.

These rental rates may be explained, in part, by factors that DHS does not control, including local ordinances that restrict where individuals on supervised release may reside. In addition, many property owners refuse to allow individuals on supervised release to live on their properties. Those who are willing to allow such individuals to live on their properties may set the rental rates considerably above the market rate because they are aware of the limited number of other landlords who are willing to rent to DHS. In addition, some property owners have been subject to negative media coverage because they allow individuals on supervised release to live on their properties, while others, according to DHS, have received death threats.

***We include
recommendations to
reduce the cost of
housing individuals on
supervised release.***

We include recommendations to reduce the cost of housing individuals on supervised release. First, DHS should attempt to identify additional firms that are willing to purchase and rent residences. DHS indicated that in the past it had considered issuing a request for proposals to identify other potential firms. However, it did not do so, in part, because it believed that it would be unlikely to receive any bids from firms willing to allow individuals on supervised release to live on their properties. Nevertheless, issuing a request for proposals could identify firms that are willing to rent properties for monthly rental rates that are lower than the rates DHS currently pays.

Second, when firms purchase and then rent residences, DHS should attempt to negotiate leases stipulating that it will pay a higher rental amount in the first year of a lease than it will pay in subsequent years. Doing so would allow a firm to recoup a substantial portion of the purchase price after a lease's first year, thereby reducing its risk of losing money if DHS ceases to rent the residence thereafter. If DHS continues to rent the residence in subsequent years, it becomes less likely that a firm will lose money, given that it can sell the residence after the lease ends. Thus, lower monthly rental rates after the first year may not be unreasonable.

Third, DHS should whenever possible attempt to negotiate leases stipulating that the monthly rental rate includes at no additional charge the cost of utilities, lawn maintenance, and snow removal. Given that the average monthly rental rate was \$1,560 in March 2013, it may be reasonable to expect that the property's owner, not DHS, should pay some or all of these costs.

☑ Recommendation

We recommend the Department of Health Services:

- *attempt to identify additional firms that are willing to purchase and rent residences for individuals on supervised release;*
- *attempt to negotiate leases stipulating that it will pay reduced monthly rental rates after the first year of leases;*
- *attempt to negotiate leases stipulating that the monthly rental rates include at no additional charge the cost of utilities, lawn maintenance, and snow removal; and*
- *report to the Joint Legislative Audit Committee by April 1, 2014, on its efforts to reduce the housing costs of individuals on supervised release.*

Contracted Services

We examined more closely supervised release expenditures for first-year supervision contracted services and monitoring and transportation contracted services. Combined, these two types of contracted services accounted for \$1.4 million in expenditures in FY 2011-12.

In January 2008, DOC executed a two-year contract with a vendor to escort individuals outside of their residences during their first year on supervised release. Beginning in January 2010, this contract for first-year supervision services was extended on a month-to-month basis. Under the contract, DOC paid the vendor \$30.87 per hour to escort individuals in FY 2012-13. Escort staff must have continuous, unimpeded access to the individuals, other than during medical examinations and in other limited circumstances.

DHS separately contracts with the same vendor to provide monitoring and transportation services. DHS has contracted with this vendor since 1998. Under the contract:

- The vendor provides monitoring services for all individuals on supervised release. As directed by DHS, the vendor's staff visit residences in order to determine compliance with supervised release rules specified by DHS.

- The vendor transports individuals who have been on supervised release for more than one year. This includes escorting the individuals outside of their residences, if DHS believes escorts are needed to ensure public safety; transporting individuals for scheduled activities, such as trips to treatment providers, places of employment, laundromats, and grocery stores; and transporting individuals for unscheduled activities, such as emergency trips to health care providers when individuals become ill or are injured.

Under the terms of the contract in effect through FY 2012-13, DHS paid the vendor \$69.89 per hour for monitoring, \$69.89 per hour for transportation related to scheduled activities, and \$91.09 per hour for transportation related to unscheduled activities. DHS paid for a minimum of one hour of service for each instance of monitoring or transportation, and thereafter it paid in 30-minute increments.

DHS pays significantly more for monitoring and transportation services than DOC pays for similar services from the same vendor.

Table 7 summarizes the hourly rates of first-year supervision, monitoring, and transportation services under the DOC and DHS contracts that were in effect in FY 2012-13. The same staff employed by the vendor provided similar services under both contracts at significantly different hourly rates.

Table 7

**Hourly Contractual Rates for Selected Services
for Individuals on Supervised Release
FY 2012-13**

	Hourly Cost
DOC Contract	
First-Year Supervision	\$30.87
DHS Contract	
Monitoring	69.89
Transportation—Scheduled Activities	69.89
Transportation—Unscheduled Activities	91.09

In February 2013, DOC issued a request for bids to provide first-year supervision services. In June 2013, it indicated in writing its intent to contract with a different vendor that will charge \$27.69 per hour for first-year supervision services in FY 2013-14.

As of July 2013, DHS had not yet renegotiated the terms of a final 12-month extension to its monitoring and transportation contract, although it anticipated doing so in fall 2013. As a result, the contract was being extended on a month-to-month basis. DHS indicated that it plans to issue a request for proposals in FY 2013-14 and then execute a new contract that will begin in FY 2014-15. Given that DOC paid \$30.87 per hour in FY 2012-13 for first-year supervision services that are not significantly different from monitoring and transportation services, DHS should immediately begin the process of issuing a request for proposals for monitoring and transportation services. Doing so may allow it to reduce significantly the costs that it pays for these services.

Monitoring and transportation expenditures increased by 62.8 percent from FY 2009-10 to FY 2011-12.

We further examined the reasons monitoring and transportation expenditures increased from \$775,100 in FY 2009-10 to \$1,261,700 in FY 2011-12, or by 62.8 percent. To do so, we reviewed the monthly bills the vendor provided to DHS for services provided from December 2009 through March 2013.

Each month, individuals who have been on supervised release for more than one year propose to DHS the scheduled activities that they wish to undertake the following month. If DHS approves the activities, it arranges the necessary transportation. As noted, DHS pays \$69.89 per hour for this type of transportation, with a minimum of one hour of service billed regardless of the actual amount of time needed to transport an individual to or from a destination.

As shown in Table 8, the average number of hours per month for monitoring an individual on supervised release varied from FY 2009-10 through FY 2011-12 before declining in FY 2012-13. In October 2012, DHS decreased the amount of monitoring of most individuals on supervised release. It did so because it believes this reduced monitoring provides sufficient assurance that individuals are complying with its rules. In contrast, transportation for scheduled activities increased from an average of 37.0 hours per month in FY 2009-10 to an average of 59.0 hours per month in FY 2012-13, or by 59.5 percent.

Table 8

**Average Number of Monitoring and Transportation Hours per Month
That DHS Approved per Individual on Supervised Release**

Fiscal Year	Monitoring	Transportation for Unscheduled Activities	Transportation for Scheduled Activities
2009-10 ¹	22.5	0.4	37.0
2010-11	28.6	0.4	42.7
2011-12	25.8	0.9	56.8
2012-13 ²	16.8	1.1	59.0

¹ December 2009 through June 2010.

² Through March 2013.

DHS does not have written policies for determining the amount and types of scheduled activities its staff should approve, and it was unable to explain the increased transportation for scheduled activities. It indicated that it did not change its practices for approving transportation for scheduled activities during the time period we analyzed.

***We question the frequency
of transportation for
scheduled activities that
DHS approved for
two individuals.***

We reviewed the scheduled activities for all 16 individuals for whom transportation was provided in December 2012. Many of the activities involved trips to grocery stores, drug stores, and job centers. However, we question the frequency of transportation for scheduled activities that DHS approved for two individuals in December 2012:

- DHS paid \$8,800 to transport one individual to and from all scheduled activities, including employment as a janitor. The individual worked six days per week, typically for two-hour shifts because DHS indicated that the individual is unable to work continuously for long periods of time. Transportation costs totaled almost \$140 per shift, including \$69.89 to transport the individual to the work site and \$69.89 to return him home two hours later. Some days, the individual worked three different shifts at different times, at a total transportation cost of almost \$420 for the day.

- DHS paid \$3,600 to transport another individual to and from all scheduled activities, including taking weekly German language lessons at a senior center. Transportation costs totaled almost \$140 per lesson.

DHS believes that research on recidivism supports the concept of allowing individuals on supervised release for more than one year to participate in scheduled activities that help to reintegrate the individuals into the community. Individuals who work can help to pay for the costs of supervised release and develop job skills that may help them to find employment after they are discharged from civil commitment. Similarly, affording individuals an opportunity to interact with others may help them to develop positive social skills that may have been neglected during their years in state facilities. However, DHS should develop written policies that help its staff to determine the appropriate frequency of scheduled activities to approve. Written policies could, for example, limit the number of times DHS will pay to transport an individual for employment, social, or other activities in a given week, unless DHS determines that the benefits of these activities outweigh the transportation costs. Written policies could also require the approval of a more senior DHS staff member if the weekly or monthly cost of transporting a given individual exceeds a predetermined amount.

To avoid paying to transport individuals to and from laundromats, DHS indicated that it often purchases used washing machines and dryers and installs them in the residences of individuals on supervised release. However, we found that 15 individuals on supervised release in December 2012 were transported to and from laundromats every week of the month. Although the precise transportation costs of each trip were not readily available, DHS may have paid almost \$140 for a given trip, presuming that it paid for one hour of service to transport an individual who had been on supervised release for more than one year to the laundromat and another hour to transport that individual back to his residence. DHS should consider purchasing and installing used washing machines and dryers in additional residences that it rents because doing so could considerably reduce its transportation costs. For example, transporting an individual to a laundromat each week could result in annual transportation costs as much as \$7,000. In comparison, a used washing machine and dryer typically cost less than \$500 together.

Monitoring and transportation services represent the largest portion of supervised release expenditures. Therefore, efforts by DHS to better manage these services will have the potential to lower overall costs of supervised release.

☑ Recommendation

We recommend the Department of Health Services:

- *immediately begin the process of issuing a request for proposals for monitoring and transportation services for individuals on supervised release;*
- *develop written policies for determining the frequency of scheduled activities to approve for individuals who have been on supervised release for more than one year;*
- *purchase used washing machines and dryers and install them in the residences of individuals on supervised release whenever possible; and*
- *report to the Joint Legislative Audit Committee by April 1, 2014, on its efforts to reduce the cost of monitoring and transportation services.*

■ ■ ■ ■

Outcomes ■

DHS believes that being on supervised release increases the likelihood that the individual will be able to transition successfully back into society. We determined the extent to which individuals violated supervised release rules specified by DHS or were convicted of criminal offenses that they committed while on supervised release. We also attempted to determine whether individuals who were discharged from Sand Ridge or another DHS facility were more or less likely to be convicted of criminal offenses than individuals who were discharged from supervised release. However, because too few individuals have been discharged, particularly from supervised release, meaningful comparisons were not possible.

Individuals on Supervised Release

A total of 34 of the 96 individuals placed into the community on supervised release were discharged.

Most individuals exit supervised release one of two ways. First, a circuit court can determine that an individual is no longer sexually violent and, as a result, discharge the individual from civil commitment. As noted, 34 of the 96 individuals (35.4 percent) placed into the community on supervised release at some point from January 1995 through March 2013 were discharged.

Second, if DHS believes an individual has violated or threatened to violate any condition or rule of supervised release, statutes allow it either to petition the circuit court to revoke the individual's participation in supervised release or to detain the individual. If DHS believes an individual is a threat to the safety of others, statutes require it to detain the individual and petition the circuit court to

We found that 33 individuals had their participation in supervised release revoked at least once for violating supervised release rules.

revoke the individual's participation in supervised release. Detained individuals are returned to Sand Ridge.

We found that 33 of the 96 individuals (34.4 percent) had their participation in supervised release revoked at least once for violating supervised release rules specified by DHS. Revocation typically occurred because individuals violated multiple rules. The most commonly violated rules were:

- being in possession of unapproved items, such as weapons, alcohol or controlled substances, or sexually explicit materials;
- having unapproved contact or activity with others;
- lying, providing inaccurate information to DHS or vendor staff who monitor the individuals, or failing a polygraph test; and
- having inappropriate sexual behaviors, unapproved relationships, or unapproved sexual contact with others.

Four of the 33 individuals were convicted of committing criminal offenses while on supervised release and, as a result, had their participation in supervised release revoked. We found that:

- One individual was convicted of committing a sexual offense with a child and exposing himself to a child. As of March 2013, this individual was incarcerated in a state correctional facility.
- A second individual was convicted of obstructing a law enforcement officer and battery or threat to a witness. As of March 2013, this individual was incarcerated in a state correctional facility.
- A third individual was convicted of absconding while under civil commitment, was returned to a DHS facility, and was subsequently discharged from civil commitment.
- A fourth individual was convicted of resisting or obstructing a law enforcement officer, was returned to a DHS facility, and was subsequently discharged from civil commitment.

Individuals Discharged from Civil Commitment

Some have questioned whether civilly committed individuals discharged from a DHS facility are more or less likely to be convicted of criminal offenses than individuals discharged from supervised release. We determined the extent to which both groups were convicted of criminal offenses during the first three years after discharge. To do so, we examined individuals who had been discharged no later than March 2010, which was three years before the most recent month of our audit period. However, we believe that because too few individuals have been discharged, particularly from supervised release, comparisons of the conviction rates for these groups should not be made.

From June 1994 through March 2010, 45 individuals were discharged from a DHS facility. As shown in Table 9, 12 of these individuals (26.7 percent) were convicted of crimes within three years of discharge, including 2 convicted of sexual offenses.

Table 9

Number of Civilly Committed Individuals Discharged from a DHS Facility and Convicted of One or More Crimes within Three Years June 1994 through March 2010

	Number	Percentage of Total
No Criminal Convictions	33	73.3%
One or More Criminal Convictions		
Non-Sexual Offenses	10	22.2
Sexual Offenses	2	4.4
Subtotal	12	26.7
Total	45	100.0%

As shown in Table 10, 6 of the 22 individuals discharged from supervised release from January 1995 through March 2010 (27.3 percent) were convicted of at least one crime within three years of discharge, including 3 individuals convicted of sexual offenses.

Table 10

**Number of Civilly Committed Individuals Discharged from Supervised Release
and Convicted of One or More Crimes within Three Years**
January 1995 through March 2010

	Number	Percentage of Total
No Criminal Convictions	16	72.7%
One or More Criminal Convictions		
Non-Sexual Offenses	3	13.6
Sexual Offenses	3	13.6
Subtotal	6	27.3
Total	22	100.0%

Petitioning for Discharge from Civil Commitment

Only civilly committed individuals or their attorneys are statutorily allowed to file petitions for discharge from civil commitment.

Statutes permit an individual on supervised release to petition for discharge from civil commitment at any time. In addition, within 30 days of DHS's submittal to the circuit court of the annual report that includes the results of the mental condition of an individual on supervised release, the individual or his or her attorney is statutorily allowed to petition for discharge. If no petition is filed, the individual remains in the custody of DHS. Statutes do not allow any other individual or entity to file a discharge petition. We note that a provision in 2005 Senate Bill 318 would have required DHS (which was then known as the Department of Health and Family Services) to file a discharge petition if it believed an individual no longer met the criteria for civil commitment. However, this provision never became law.

From January 1995 through March 2013, individuals were on supervised release for an average of 2.5 years. However, some were on supervised release considerably longer. As shown in Table 11, 12 individuals were on supervised release for more than five years, including 1 individual who was on supervised release for more than ten years.

Table 11

Number of Years Individuals Were on Supervised Release
January 1995 through March 2013

Years	Number	Percentage of Total
Up to 5	84	87.5%
More than 5	12	12.5
Total	96	100.0%

As of March 31, 2013, 4 of 33 individuals had been on supervised release for more than five years. According to DHS, some of these individuals would potentially be discharged by circuit courts if they were to file petitions. For example:

- One individual who has been on supervised release for nearly 14 years has severe cognitive disabilities and resides in a community-based residential facility, which is paid by DHS to house and care for him. The facility provides for all of his needs and monitors him. He is not mentally competent to file a petition, and his legal guardian does not want to file one on his behalf because the facility cares for the individual. DHS anticipates that additional individuals with disabilities will be placed in community-based residential facilities in future years, and that some of these individuals may also not want to file discharge petitions.
- A second individual who has been on supervised release for nine years is employed, has been given permission to own and operate a vehicle, lives independently, and pays for most of his living expenses. He rarely needs scheduled transportation and is subject to only limited monitoring.

Individuals on supervised release may be reluctant to petition for discharge for a number of reasons. After years of living in institutional settings, an individual may be apprehensive about living without the structure and support provided by civil commitment. Others lack employment prospects, financial

resources, or friends and family members who can support them. DHS indicated that when it believes that a circuit court may approve a discharge petition if an individual who has been on supervised release for many years were to file one, it may take steps that are intended to demonstrate more clearly the disadvantages associated with being on supervised release and thereby encourage an individual to file a petition. For example, it may consider housing another individual on supervised release in the same residence.

In most instances, individuals on supervised release readily take advantage of their legal right to file discharge petitions with circuit courts as soon as possible. However, when individuals do not file discharge petitions even though circuit courts might approve them, DHS incurs unnecessary monitoring, housing, and other costs. DHS indicated that it does not advise individuals to file discharge petitions because it believes this would constitute legal advice, which it does not provide to civilly committed individuals. Given the ongoing cost of civil commitment, DHS should provide the Legislature with options for facilitating the discharge of individuals who may no longer meet the statutory criteria for civil commitment. Such options could include modifications to statutes.

☒ Recommendation

We recommend the Department of Health Services report to the Joint Legislative Audit Committee by April 1, 2014, on options for facilitating the discharge of individuals on supervised release who may no longer meet the statutory criteria for civil commitment but who are unwilling to file discharge petitions with circuit courts.

■ ■ ■ ■

Appendix

Supervised Release Residences

March 31, 2013

Occupancy	County	Municipality	Utilities Included in the Rent	Monthly Rent	Owned by a Firm That Purchased It in Order to Rent It to DHS
Single ¹	Racine	Racine	Yes	\$ 650	No
Single	Oneida	Rhineland	No	750	No
Single	Racine	Racine	No	775	No
Single	Crawford	Prairie du Chien	Yes	800	No
Single	Barron	Rice Lake	No	1,000	No
Single	Pepin	Arkansas	No	1,200	No
Single	Vilas	Eagle River	No	1,200	No
Single ²	Winnebago	Oshkosh	No	1,200	No
Double	Sauk	Baraboo	Yes	1,250	No
Single ²	Jefferson	Jefferson	No	1,250	Yes
Single	Walworth	Elkhorn	No	1,300	No
Single	Dane	Middleton	No	1,300	No
Single ³	Fond du Lac	Van Dyne	No	1,300	Yes
Single	Brown	New Franken	Yes	1,558	Yes
Single	Jefferson	Cambridge	No	1,575	No
Single	Manitowoc	Manitowoc	No	1,600	Yes
Single	Columbia	Portage	No	1,600	No
Double	Rock	Beloit	No	1,800	Yes
Single	Brown	Green Bay	No	1,800	Yes
Single	Milwaukee	Milwaukee	No	1,900	Yes
Single	Kenosha	Wheatland	No	2,000	Yes
Single ²	Brown	Green Bay	Yes	2,026	Yes
Single	Eau Claire	Eau Claire	No	2,100	Yes
Double	Outagamie	Appleton	No	2,150	No
Single	Marathon	Bevent	No	2,200	Yes
Double	Milwaukee	Milwaukee	No	2,400	Yes
Single	Brown	Green Bay	Yes	2,500	Yes
Single	Waukesha	Waukesha	No	2,500	No

¹ Located in a complex that houses a number of sex offenders.

² Duplex residence; DHS rents both units, one of which is vacant.

³ Vacant in March 2013.



State of Wisconsin
Department of Health Services

Scott Walker, Governor
Kitty Rhoades, Secretary

August 15, 2013

Joe Chrisman, State Auditor
Legislative Audit Bureau, STE 500
22 East Mifflin Street
Madison, WI 53703

Dear Mr. Chrisman:

The Department of Health Services (DHS) has completed its review of the Legislative Audit Bureau (LAB) report on the supervised release program placements and expenditures and we appreciate the exceptional professionalism of the LAB Program Evaluation staff that conducted the audit and worked closely with our program staff. The report illustrates the auditor's understanding and appreciation of the very complex and difficult process of protecting the public by being responsive to time sensitive court orders and placing high risk sex offenders in communities throughout Wisconsin. As we all assume responsibility for being good stewards of state resources, we appreciate specific recommendations that we agree will help to improve the management of supervised release expenditures.

The report's recommendations in regard to development of written policies to guide the processes to identify potential residences are helpful as are the recommendations for improvement in identifying victims and notifying victims in the process of locating potential residential placements. The Department intends to further review these recommendations and implement appropriate measures to improve the victim notification process.

The Department appreciates the recommendation to solicit a statewide vendor for residential services and has begun the process of developing a Request for Proposals (RFP) to identify additional firms willing to purchase and rent residences throughout the state of Wisconsin within statutory timeframes and administrative code. We appreciate the report's acknowledgement of the enormous financial and other risks these firms assume when working with the Department. The Department intends to move forward with the Bureau's creative recommendation that the DHS attempt to negotiate leases stipulating that it will pay a reduced monthly rate after the first year, which is when the firm assumes the greatest risk.

The Department recognizes the significant cost of providing monitoring and transportation services to clients on supervised release. These services are statutorily mandated in some cases and are used to reduce risk and access to potential victims in many cases. Throughout the history of the supervised release program the Department has regularly issued Requests for Bids (RFB) and RFPs to contract for its monitoring and transportation services. The Department will continue to pursue this avenue for these services.

Finally, the report recommends that “the DHS report to the Joint Legislative Audit Committee by April 1, 2014 on options for facilitating the discharge of individuals on supervised release who may no longer meet the statutory criteria for civil commitment but who are unwilling to file discharge petitions with circuit courts.” The department will work with legal counsel both at the department and at the Department of Justice in evaluating the feasibility of this recommendation. However, the Department maintains the position that in order to protect the public and Wisconsin families, the utilization of supervised release, when appropriate, is safer than discharge.

The Department again wishes to thank the Legislative Audit Bureau staff for their work on this audit and the thorough analysis of the supervised release program placements and its expenditures and for its thoughtful, creative recommendations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kitty Rhoades".

Kitty Rhoades
Secretary

cc: Kevin Moore, Deputy Secretary

Linda A. Harris, Administrator, Division of Mental Health and Substance Abuse Services