



# STATE OF MINNESOTA

## Office of Governor Mark Dayton

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

November 13, 2013

Ms. Lucinda Jesson  
Commissioner  
Minnesota Department of Human Services  
Commissioner's Office  
Post Office Box 64998  
St. Paul, Minnesota 55164-0998

Dear Commissioner Jesson:

By way of background, as you know, for many years the State of Minnesota has kept its most serious criminal sexual offenders locked away with virtually no chance of release. That is where most Minnesotans would prefer to keep them, and I agree. As a father and a grandfather, I believe the risks are too high to allow them to walk freely.

As Governor, however, I am responsible to carry out the laws of the State of Minnesota. Under those laws, a person convicted of a sexual crime is sentenced to prison for a length of time decided by the presiding judge, after considering the facts of the case and the state's sentencing guidelines. Those guidelines have been strengthened over time. They now provide for life sentences for repeated sexual offenses and for the most violent assaults. However, those changes do not affect the sentences of inmates, who were convicted and sentenced under older, weaker laws.

Until now, the State's tactic to avoid releasing the most serious sexual offenders after they had served their criminal sentences has been to commit them to a "treatment program" in a locked facility at either Moose Lake or St. Peter for an indefinite period of time. The laws establishing these "civil commitments," which were enacted by previous governors and legislatures, spelled out the conditions, which, when met, were supposed to lead to the provisional discharge of those patients who progressed through treatment to secure but less restrictive treatment facilities. In practice, however, these civil commitments have turned into virtual life sentences. During the past twenty years, only one person has been successfully provisionally released.

As a result, there are now 697 men and one woman, who have been locked away for as long as twenty years after completing their criminal sentences. As I said before, most Minnesotans, including me, would prefer that they stay that way. However, motions are pending before a federal judge arguing that this method of locking people away for life, without giving them actual life sentences, is unconstitutional.

If the federal judge finds the program unconstitutional, you and I will be put in the position of having to do what previous governors and their administrations have avoided: establish

treatment and settings that meet the Court's requirements, while doing our best to protect the public's safety.

At the same time, the current Minnesota Legislature will have to do what previous legislatures have avoided: revise existing state laws, which govern both the criminal and civil commitments of convicted sex offenders, as well as the conditions for their release; and establish and fund the facilities, programs, and services, which will be needed to satisfy the Constitution, while safeguarding the public's safety.

You have courageously begun to implement the current Minnesota laws governing civil commitments and provisional releases, which have previously been ignored or avoided. You have established procedures, which include several extensive, professional evaluations to determine whether a patient presently meets the statutory requirements for provisional release; elaborate security precautions; round-the-clock GPS monitoring of the patient's movements; and the proviso that a single misstep will cause the person to be returned to a locked facility.

I have supported your decisions not to oppose three other provisional discharges, as those cases proceed to a panel of three judges, appointed by the Minnesota Supreme Court, who will make those final decisions. I did so, because I have great confidence in your judgment, and also because I believe very strongly that professionals, not politicians, should make those very difficult decisions. All of the political grandstanding, which accompanied recent news reports about one of these possible releases, reinforced my views.

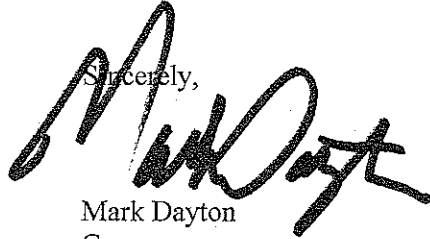
Unfortunately, I do not believe that your attempts to establish a program of provisional release, as required by current law, can succeed, when surrounded by this political gamesmanship. Accordingly, I direct that you oppose any future petitions by sexual offenders for provisional releases, until after the following conditions have been met. I also direct that you suspend your department's plans to transfer any sexual offenders to other tightly supervised facilities, such as in Cambridge, until these conditions have been met.

1. The Sex Offender Civil Commitment Advisory Task Force has issued its findings and recommendations, now scheduled for December 1<sup>st</sup>. Its Chair, former Chief Justice of the Minnesota Supreme Court Eric Magnuson, and its other members have performed an invaluable service to our state by addressing these extremely controversial problems fearlessly and rationally.
2. The legislature in 2014 has had the opportunity to review existing statutes and make any necessary revisions to protect the public's safety: the degrees of criminal sexual misconduct, the penalties for those crimes, the civil commitment of sexual offenders for extended treatment, the requirements for discharge, and the subsequent services, supervision, and public protection. None of your agency's programs cited above will resume until after the legislature has completed its work during the upcoming legislative session.

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3. The legislature and our administration have agreed to the additional facilities, programs, and staff necessary for this program's successful implementation and have provided sufficient funding for them.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Dayton". The signature is written in a cursive, flowing style with some loops and flourishes.

Mark Dayton  
Governor

cc: Commissioner Tom Roy, MN Department of Corrections