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EXAMINING CORRECTIONS POLICY AND PRACTICE IN RESPONSE TO  
INDIANA'S ZACHARY'S LAW: A REGIONAL ANALYSIS

By

Janine A. Ralston

A Thesis  
Submitted to the  
Faculty of The Graduate College  
In partial fulfillment of the  
Requirements for the  
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Department of Sociology

Western Michigan University  
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June 2001

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Janine A. Ralston

# EXAMINING CORRECTIONS POLICY AND PRACTICE IN RESPONSE TO INDIANA'S ZACHARY'S LAW: A REGIONAL ANALYSIS

Janine A. Ralston, M.A.

Western Michigan University, 2001

This study provides an analysis of a criminal justice agency's policy and practice to examine if they reflect specific objectives of Indiana registry and notification laws. Prior research suggests that for objectives of sex offender registry and notification laws to be realized, they be reflected system-wide, and in policies and practices of criminal justice agencies. The agency selected for this study is the Indiana Department of Correction. A combination of policy and statistical analysis, interviews with key agency personnel, and compilation of agency documents provides a triangulated approach to addressing this inquiry.

This study found that while some policies and practices reflected the objectives of protecting the community and positively effecting offender behavior, they were not consistently found. In addition, while some practices in the agency, such as those found in social services, were intended to produce positive change in offender behavior, there was no system-wide policy standardizing those practices. This study also indicated that several policies and practices were found to have a potentially negative effect upon community protection.

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## CHAPTER I

### INTRODUCTION

Indiana's Sex and Violent Offender Registry Law, or Zachary's Law, was first established in 1994 (P.L. 11-1994). The statute was enacted following the murder of Zachary Snider, an Indiana boy who was killed by a convicted sex offender living in his rural Indiana community. Zachary's Law, originally touted to protect children from falling victim to sex offenders living undetected in the community, required sex offenders to register with local authorities and state and local agencies to participate in the dissemination of the resulting registry. Since its enactment, Zachary's Law has undergone annual modifications from 1994 through 1998 to include additional offenses and offenders.

Indiana's Sex and Violent Offender Registry Law, like other state and federal registry and notification laws, has several identifiable goals. For this study, objectives of Indiana's Zachary's Law, along with those of the federal registry and notification laws, were determined through examination of news and press articles, government publications, statute, and scholarly papers. These sources provided the rationale and justification for the development and expansion of registry and notification laws, either for the U.S. or Indiana. Among the objectives, (1) the intention to positively effect convicted sex

offender behavior in the community, and (2) increase community knowledge of sex offenders for self-protection, are routinely indicated.

For the objectives of sex offender registry and notification laws to be realized, they need be reflected in the policies and practices of criminal justice agencies. Designing a comprehensive approach is necessary in sex offender policy and practice, as supported by several studies on registration and notification. A 1994 study conducted for the U.S. Department of Justice concluded that notification be used as one tool along with other practices such as curfews, polygraphing, and applying special restrictions in the management of sex offenders (Finn, 1997). In their results of a national survey of probation and parole agencies, researchers cautioned that sex offender-specific containment practices do not function optimally without the support of consistent public policies (English, Pullen & Jones, 1996).

A comprehensive legislative and administrative approach, therefore, need be present in agencies within Indiana's criminal justice system for Indiana's registry and notification law to function effectively. For this study, the Indiana Department of Correction (IDOC) is the subject agency. The IDOC's policies and practices regarding sex offenders are examined to see if Zachary's Law is supported by a criminal justice system-wide approach to sex offenders.

The current research examines if the actual goals of Indiana Department of Correction policy and practice reflect the above selected goals

of Zachary's Law (1994-1997). This study inquires if policies and practices provide community protection, positively effect change in offenders' behavior in the community, a combination of both, or produce neither of these conditions. Through conducting interviews with IDOC officials, reviewing IDOC policies, and analyzing IDOC admission and release data, I address this inquiry.

In the following chapter, I explain the evolution of social control of sex offendes and the emergence of registration and notification practices in Indiana. The proceeding two chapters discuss the development of the research agenda and the methods employed in this study. The final two chapters present the findings of the research and the discussion, conclusion, and recommendations that result.

## CHAPTER II

### EVOLUTION OF SOCIAL CONTROL OF SEX OFFENDERS

Expansive legislation with objectives supporting the establishment of a method of management and treatment using both offenders' internal controls and external measures, also known as a *containment approach* (Colorado Department of Public Safety, 1996, p. 7), to address the problem of sex crimes have not historically been in place. Ideological, social and political foundations have influenced and changed modern American sex-crime laws throughout the past century.

In discussing sex offender registry and community notification goals, it is necessary to examine the progression of morality laws and anti-crime efforts aimed at the sexual perpetrator. Child protection movements have commonly been spurred by child sex murders, though these incidents are rare (Jenkins, 1998, p. 10). Children are at very low risk of being victims of homicide, particularly by a stranger-perpetrator. Consider children below age 12 (those children of interest to pedophiles): in the U.S., between 1980 and 1994, 13,000 such children were murdered, or approximately 900 per year (Jenkins, 1998, p. 10). Of the annual total of victims, about six percent of were killed by a stranger; in contrast to 54 percent murdered by a parent or family member. Furthermore, in only three percent of the homicides did a sex

crime occur during or preceding the murder of the child. Yet, examination of the historical crises over sex offenders in the U.S. shows that policies have primarily been developed in response to the sexual victimization and murder of children and women by strangers, and exhibit “classic signs of panic legislation,” (Jenkins, 1998, p. 6).

In Moral Panic: The Changing Concepts of the Child Molester in America, author Philip Jenkins states “The child abuse problem is one of many that have varied enormously in the amount of attention ...received in different eras,” (1998, p.3). Jenkins notes that sometimes the degree of public concern may change for rational reasons, such as the concerns for sexually transmitted disease in the early 1900’s, considerably dangerous before the medical advancements developed to control them. However, Jenkins argues, the perceived importance of a given problem “grows or diminishes without any change in the real threat-potential of the condition itself,” (1998, p. 3). Concern for the sex offender has fluctuated in the U.S. since the late nineteenth century to include periods of *panic* over sex crime. *Panic*, as discussed here, is derived from the moral panic theory formulated by British sociologists like Stuart Hall and Stanley Cohen in the 1970’s. Hall and Cohen (1978) argue that a wave of irrational public fear can be identified when

the official reaction to a person, groups of persons, or series of events is out of all proportion to the actual threat offered, when ‘experts’ perceive the threat in all but identical terms, and appear to talk ‘with one voice’ of rates diagnoses, prognoses and solutions, when the

media representation universally stresses 'sudden and dramatic' increases and 'novelty', above and beyond that which a sober, realistic appraisal could sustain. (p. 16)

The question then arises as to what may be considered a "sober, realistic appraisal" of the "actual threat" that is presented by sex offenders in this society. In his analysis of the changing concepts of sex offenders, Jenkins (1998) draws upon moral panic theory to illustrate the social, political, and ideological transformations that have occurred since the late 19<sup>th</sup> century. He argues that panics concerning sex offenders can be observed in specific eras in U.S. history, and were fueled by extravagant claimsmakers, such as professionals, interest groups and the media, who assert that the problem is "far more severe than anyone could reasonably suppose," (Jenkins, 1998, p.7). Jenkins (1998) further emphasizes that, in response to the claims and demands, legislators implement policies that

...divert resources away from measures which might genuinely assist in protecting children. According to these criteria, the area of child molestation and sexual abuse has repeatedly produced panic responses during the past century or so. (p. 7)

The oldest accounts of child molestation as a social problem in this nation date from 1894, when we locate then-astonishing claims that child rape is the most frequently committed sex crime (Jenkins, 1998, p.15). America's first statutes designed to protect children from sexual exploitation were enacted during the final years of the 19<sup>th</sup> century. In 1896, Sigmund Freud introduced the proposition that many young females from socially upstanding families had been subject to sexual abuse and incest (Jenkins, 1988, p. 15).

Sex crimes, as they were legally defined, often included a vast range of behaviors, both forcible and consensual, giving an inflated estimate of sex crime. Social service and medical providers (concerned with outbreaks of venereal diseases), child savers, and reformists (promoting social purity), made claims regarding maltreatment of young and sexual practice, particularly pedophilia and homosexuality (Jenkins, 1998). In addition, a wave of journalistic accounts of notorious serial killings and sex crimes, creating a new perception of the sex killer, increased public alarm. And, as in later panics, these violent serial cases led to increased police activity against those most associated as being part of the wider sex crime problem – homosexuals. The focus on this group would be politically significant in diverting “blame for the problem of children’s abusers away from incestuous father and toward dangerous outsiders,” (Jenkins, 1998, p. 37). Within the first decade of the 20<sup>th</sup> century, there was widespread concern for the prevalence of sexual violence against children in the United States.

The fear that mounted between 1937 and 1940 was aroused by a series of kidnappings including the Linburgh case of 1932 (Jenkins, 1998, p. 50). As with the previous era, well-publicized multiple-murder and rape cases reinforced the public image of dangerous, predatory sex criminals. Some of the sex murders included child victims and offenders with previous convictions and lengthy records of sexual misconduct (Jenkins, 1998, p. 51). Under pressure, law enforcement intervened in minor offenses they had previously



overlooked; the greater frequency of arrest led to the impression that more offenses were being committed. In addition, newspapers were reporting individual sex offenses in the context of a greater social problem (Jenkins, 1998, p. 52).

The statutes of the late 1930's and early 1940's included longer, harsher penalties for those considered non-redeemable and dangerous sex offenders, but were without a concise theoretical foundation. Rather than recognizing social scientific evidence, however, legislators responded to the overwhelming social and political pressure to create "quick fix" laws addressing sex criminals. The majority of sex crimes were considered products of sexual deviation, and those committing sexually deviant acts were referred as *sexual psychopaths* (Jenkins, 1998, p. 61). *Sexual psychopath* and *sex offender* became loosely applied labels, and authorities maintained great latitude in applying penalties even to those committing less serious, less violent crimes. In general, the laws assumed most defined as sex offenders were redeemable with appropriate intervention and treatment by experts. Some offenders, whose sex crime accompanied more violent offenses, were regarded as "a psychopathic inferior, doomed from birth to be a menace," (Jenkins, 1998, p. 61).

The sexual psychopath laws created in the 1910's and 1940's in response to several remarkable crimes and social movements collapsed during the early 1960's. The critical atmosphere of the 1960's and early

1970's provided a challenge to laws that either defined sexual deviance or allowed for civil commitment or discretionary sentencing of sex crime offenders. Academic literature led inquiry into victimless crime and studies provided support for expansive decriminalization of sex acts previously defined criminal (Jenkins, 1998, p. 109). Questions of the legitimacy of the state were raised by ideas like labeling, the then radical doctrines holding that a label indicating deviancy is more reflective of the values and interests of social groups powerful enough to apply labels than the actions of the labeled individual. New criminological approaches undermined previous concepts of the nature of crime and illness. The trend in re-examining the authority of the state provided the foreground for overturning earlier established sexual psychopath laws. Academic works and legal decisions depicted existing sex laws as outdated reflections of an earlier generation who criminalized many consensual activities; while criminal laws against nonviolent offenders and exhibitionists were overturned, and "the Supreme Court and the federal courts... oversaw a general relaxation of the laws relating to personal behavior and sexually morality," (Jenkins, 1998, p. 110). Legal concerns shifted from the victims of sex crimes to the criminals and patients victimized by structural injustices (Jenkins, 1998, p. 115), relieving the focus of sex crime from the offender and shifting attention to the legitimacy of the laws.

By 1974, the federal courts were reflecting that child molesting was not a significant social problem; however, at the same time, women's

organizations and social work agencies began to revisit issues of sexual and non-sexual violence against women and children (Center for Sex Offender Management, 1997). Initially, concerns of woman and child battering and abuse were not publicly linked to sex offending; but public opinion shifted when perception grew that all children were sexually at risk, most often resulting in irreversible damage to the victim (Jenkins, 1998, p. 118). Indeed, millions of Americans were reporting that, in their childhood, they had experienced unwanted sexual contact. Therefore, the increase in public concern was not completely unwarranted. However, the perceived dangerousness and magnitude of the offenses were embellished by the expansive definition and assimilation of "all minor forms of deviancy with the most threatening acts of sexual predation," (Jenkins, 1998, p.119). The resulting proactive social service campaigns significantly increased awareness of sexual violence. Research into the identity of sexual perpetrators led professionals to change the focus from the stranger to family members. Intimate danger became the focus of professional and popular literature and media, reflecting "contemporary fears over both rape and child battering," (Jenkins, 1998, p. 139).

During this period, centers responding to these types of violence, primarily rape crisis centers, domestic shelters and public welfare agencies, began to demand formal responses from the criminal justice system. In addition, media afforded prominent attention to several long running,

sensational cases of child murders, and merged sexual themes with the crimes in their portrayal (Jenkins, 1998, 132). Earlier in the 1970's, child pornographic films and pictures had increased in availability in the U.S (Jenkins, 1998). Beginning in the late 1970's, child pornography was depicted as a social threat, an exploitation of children, and penalties for its possession stiffened as child porn was increasingly associated with predatory behavior.

Following the shift in the late 1970's, the 1980's legislatures and criminal justice agencies began treating sex offenses as a far greater priority than they ever had previously (Jenkins, 1998, 190). The increase is reflected in prison population changes of the era. Jenkins (1998) provides:

There were about 58,000 sex offenders in the nation's prisons in 1988; by 1990 that number had increased to 85,000, a 47 percent increase in just three years, and sex offenders (however defined) composed one-sixth of all inmates in federal and state institutions. (p. 190).

Studies began emphasizing the role of the repeat offender, and convicted offender self-reports often revealed a pattern lengthy history of sex offenses. In 1980, a book entitled Michelle Remembers was released describing how a woman recalled, during therapy sessions, "the ritualistic sexual abuse that she suffered as a child in Vancouver during the mid-1950's," (Jenkins, 1998, p. 166). According to Jenkins (1998), this sensational story had a significant impact on attitudes toward child abuse in the coming decade. Then in 1982, increased fears of ritual abuse and pedophile rings followed a sensational case involving a man who sexually abused his two daughters and participated in a network of adults exchanging children for sexual purposes (Jenkins,

1998). Stories connecting sex rings and ritual abuse to satanic practices circulated among media, and questions were raised concerning the number of undetected sex ring operations. By the late 1980's, ritual child abuse and murder had gained national visibility in popular television programming.

In this trend of concern for the repeated or career sex criminal, legislative panels throughout the nation began proposing long-term incarceration of offenders, incarcerated for not only committed offenses, but also their potential for future offense. In this decade, several states passed legislation permitting a more lengthy confinement for sex offenders. The state of Washington, for example, became a pioneer in evolving legal means of addressing the problem of sex crimes.

Washington, building upon other states passage of measures permitting lengthy confinement and civil commitment, approved a law allowing the further detainment of offenders based upon their future dangerousness (Jenkins, 1998). In 1990, the Community Protection Act was implemented in Washington law allowing indeterminate incarceration, in some cases. This law further provided that the state may detain the sex offender past his release date pending the outcome of a civil commitment hearing, and a determination of future dangerousness could result in indefinite confinement at a high security center (Jenkins, 1998, pp. 191-192). This feature was retroactive, and applied to offenders who were not only released after the law's enactment, but were convicted before its passage. Another provision of

the Community Protection Act was the community notification law, which authorized law enforcement to disseminate information about convicted sex offender living in the community to the public (Schram & Milloy, 1995).

These legislative developments reflected the overwhelming public demand to increase penalties for sex crimes following a series of gruesome crimes in the Washington area. The most sensational case was of an offender, Earl K. Shriner, who was convicted of child molestation in 1977, 1987 and 1988 (Jenkins, 1988, p. 191). Shriner was released after serving his prison term. In prison, he revealed to correction officials that he had "designed a van that he reportedly proposed to use for abducting, torturing, and killing children," (Jenkins, 1988, p. 191). Then, in May 1989, Shriner assaulted and mutilated a child, leaving him for dead. The public outrage focused upon Shriner's release from prison despite his confession his intentions. A later case from Washington, that of Westley Alan Dodd, reinforced the public concern in the early 1990's that police, courts, and psychiatric and correctional officials may fail to detect signs of future dangerousness in offenders.

The Dodd case had received national attention, and interviews with and stories about Dodd left him regarded as "evil personified, the ultimate human predator," (Jenkins, 1998, p. 193). The concern for child abuse reaches its greatest momentum when "framed in terms of molesters and pedophiles, who attack from outside the family and home...and are known as

sexual predators.” (Jenkins, 1998, p. 188). The modern concept of *predator*, used to describe sex offenders and their crimes, implied a pursuing and animal-like behavior, and popularized following extensive reporting of the Washington statute during 1991. Through these years, reports and documentaries on predators overshadowed concern for intimate abuse and reemphasized the role of strangers. When cases of acquaintance abuse were publicized, they were often those which were surrounded with skepticism and questioned the validity of the victims’ claims. The credibility of the accusers, rather than the perpetrators, was being questioned in many cases involving acquaintance abuse (Jenkins, 1998).

During the late 1980’s and early 1990’s, movements to improve the rights of crime victims also renewed interest in sex offenses, primarily those of stranger crimes. Victim rights and notification legislation were established to allow for crime victims to participate in the criminal justice process while reducing re-victimization by the system. During the 1980’s, for example, new state laws removed the requirement for child witnesses to testify before the accused thereby reducing their availability for cross-examination (Jenkins, 1998). These changes were significant because they indicated a trend in assuming that victimization had occurred, even prior to the conviction of the accused perpetrator. Laws also provided victims with compensation, and structured criminal justice practices to protect the victim or witness of a crime from further harm by the offender.

## Legislating Community-based Social Control of Convicted Sex Offenders

During the 1980's several local-level courts across the nation had delivered individualized decisions that required convicted sex offenders to notify their communities of their presence and sex offense convictions. In 1990, Washington approved the first community notification law in the United States that outlined disseminating information on a particular group of offender – sex criminals (Center for Sex Offender Management, 1997). Other states followed with similar laws. In some states, including Louisiana and New Jersey, the impetus to enact notification legislation came following a highly publicized sex crime by a released offender (Finn, 1997). Other states, such as Alaska and Tennessee, passed introduced notification bills because “they felt the problem needed attention and knew other States were enacting legislation,” (Finn, 1997, p. 3). In Oregon, legislation passed after being introduced by a representative who was made aware that a sex offender was about to be released into his community; and, in Connecticut, victims groups and legislators allied to get legislation passed (Finn, 1997, p. 3). By 1997, thirty-two states had passed some form of notification legislation.

With the widely publicized sexual homicides of several children in the early 1990's, including Megan Kanka, Polly Klaas and Zachary Snider, came the contemporary use of the sexual psychopath/predator label and passage of additional sex offender and sexual psychopath/predator laws. Continuing the



trend from the 1980's, the emphasis remained upon the stranger predator. As in the past, the laws primarily responded to sexual homicides, both nationally and in Indiana.

Federally, in 1994 Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Matson & Lieb, 1996). This legislation mandated that all states create and implement registries of offenders who have been convicted of sexually violent offenses or crimes against children. As stated earlier, those states not adhering to this policy forfeit a ten-percent reduction of their crime control funding within the following three years. To date, all fifty states have some type of offender registry legislation. In 1996, Congress passed federal legislation amending the Jacob Wetterling Act to include the implementation of Federal community notification statute Megan's Law by September 1997. Neither the original law, nor its amendments, included appropriating funds for implementation.

In Indiana during July of 1993, ten-year-old Zachary Snider was kidnapped from his rural community and murdered by a convicted, freed child molester (Indiana Criminal Justice Institute, 1995). Zachary Snider's sexual victimization and murder spurred the 1994 passage of Zachary's Law. The resulting statewide registry of sex offenders is published not only in law enforcement, libraries, schools, day-care centers and some social service agencies, but also on the World Wide Web.

### Evolution of Indiana's Zachary's Law

Before the 1994 passage of Zachary's Law, Indiana developed policy and legislative changes intended to enhance the community's knowledge regarding convicted offenders. Indiana's victim-witness bill of rights and the state victim notification laws that followed were in response to two separate violent crimes against women residing in and near Indiana.

Indiana's victim-witness bill of rights, developed by the Department of Correction in Indiana in 1989 following the murder of Indiana resident Lisa Bianco, was the first in Indiana to address the protection of crime victims (Dieter, 1989). The murder was committed by an acquaintance, the victim's ex-husband. In 1989 Alan Metheney, while on pass from an IDOC prison work release program, murdered his ex-wife, Lisa Bianco. This event was not only a catalyst for Indiana's first legislation addressing victim's rights, but also provided justification for victim notification and other subsequent criminal justice agency policies and practices that will be discussed further in this paper. After 1989, legislation in Indiana was supported and passed aiming to protect citizens and victims from dangerous criminals and reduce re-offending, particularly by sex offenders.

The victim bill of rights provides that the victim or witnesses of crimes be informed of court proceedings and offered some financial assistance, and invites victims to provide a statement regarding the impact of the offense. In addition, it stipulates that victims and witnesses would no longer be required

to testify about personal information, such as their residence, employment, telephone and other identifying numbers, if their safety were threatened. This bill also limits the contact between victims, witnesses and defendants. The enactment of this legislation provided some community members, victims and witnesses of crimes, special knowledge regarding offenders, such as their movement, release and parole information, for their protection. Following the trend of managing offender and offense information for the protection of certain community members, victim notification laws soon developed.

Victim notification laws allow for specific members of the community to have access to an offender's information, and opened the door for registry and community notification legislation to follow. Victim notification developed in Indiana following the late 1980's murder of Lisa Bianco, and in reaction to the 1993 murder of a Kentucky woman, near the Kentucky-Indiana border, by a man who had previously been convicted of kidnapping and raping her (Dieter, 1994). The legislation requires law enforcement to notify victims of sex crimes, kidnapping, battery, robbery, intimidation, harassment or stalking when the offender will be released from custody. The victim-witness bill of rights and victim notification developments indicated a trend in Indiana's criminal justice policy toward enhancing the community's knowledge regarding convicted sex offenders and provided a foundation for Zachary's Law.

Indiana's sex and violent offender registry law, known as Zachary's Law, was enacted during Indiana's 1994 legislative session, and designed to

protect children from sexually violent adult offenders by 1) deterring offenders from committing new sex crimes, 2) increasing community knowledge of sex offenders for protection, and 3) assisting law enforcement investigations. The passage of this method of management using offenders' internal and external control measures reflected the trend of policy development in containment practices. Access to the registry is intended as a means of citizen protection, particularly for parents and their children. In addition, "supporters of sex offender registration argue that it contributes to public safety [as] once registered, offenders know they are being monitored, [thus] deterring sex offenders from committing new offenses," (Matson & Lieb, 1996, p. 3).

Zachary's Law mandated adult sex offender registration and defined the role of the Indiana Criminal Justice Institute (ICJI) in establishing and distributing the statewide Sex Offender Registry (Indiana Criminal Justice Institute, 1998, p. 1). Under this statute, the following offenses were included: Rape (if the victim was less than 18), Criminal Deviate Conduct (if the victim was less than 18), Child Molesting, Child Exploitation, Vicarious Sexual Gratification, Child Solicitation, Child Seduction, and Incest (If the victim was less than 18). The registration requires that the following information be included: "1) The offender's full name, alias, date of birth, sex, race height, weight, eye color, Social Security number, driver's license number, and home address; 2) A description of the offense for which the offender was convicted, the date of conviction, and the sentence imposed, if applicable; and, 3) Any

other information required by the institute,” (Indiana Code Annotated, Title 11, Article 6, 1994).

The statute also mandates that the offender register with local law enforcement in any area where they choose to reside more than seven days within one week of release from a correctional facility. Offenders must also notify law enforcement of all changes in address. This original legislation allowed for the termination of employees, and in some cases required the termination of employees, who were listed as offenders and worked with children (Indiana Criminal Justice Institute, 1995).

The law required that the ICJI publish and biannually update the statewide registry, and distribute it to schools, state personnel departments, certain state and county agencies, and child care or service providers. In addition, most local libraries hold a copy of the registry. As stated earlier, it is also available on the World Wide Web. In this initial law, the offender’s duty to register expired when they were no longer on probation or parole, which was not to exceed ten years (Indiana Code Annotated, Title 11, Article 13, 1994).

Zachary’s Law was modified in 1995, to include more offenders and offenses, and lengthen the term of registration. First, the law expanded to include those who commit Sexual Misconduct with a Minor (if A or B felony)<sup>1</sup>. Second, those required to register included those convicted after June 30,

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<sup>1</sup> See Appendix B for classification of felonies by offense.

1994, regardless of their parole/probation status. Finally, it required offenders to register with law enforcement agencies for ten years following release from prison, or placement on probation or parole, whichever ever occurs last (Indiana Criminal Justice Institute, 1998, p. 1).

The following year marked the second modification to Zachary's Law. The additions included Sexual Battery as a covered offense, if the victim is less than 18 (Indiana Criminal Justice Institute, 1998, p. 1). Also, certain juveniles adjudicated as delinquents for the covered offenses were required to register. In addition, the penalty for failure to register was increased to a Class D or C Felony.

The Indiana General Assembly modified the law again in 1997; though the changes seemed minimal, the law significantly increased the number of sexual offenders affected. The amendments included a removal of victim age requirements from the covered offenses, and included those persons with past out-of-state convictions (Indiana Criminal Justice Institute, 1998, p. 1). The development and passage of the 1997 bill, dubbed the Pillowcase Rapist Bill, that amended Zachary's Law was fueled by events surrounding Reginald Muldrew, the man commonly known as the Pillowcase Rapist. Muldrew moved to Indiana in 1996 following his 1995 publicized release from an out-of-state correctional facility (Associated Press, 1997). Though he was acquitted of all charges, he faced two criminal trials in Northeast Indiana, one of which included charges of criminal deviate conduct, a sex crime. His ability to

relocate to and reside in Indiana, most likely because of the lack of registry and notification laws applying to him specifically, generated a movement to include many additional sex offenders under the state's sex offender registration laws. The public concern raised by the events surrounding the Pillowcase Rapist in Indiana only furthered the focus upon stranger victimization, and the legislative solutions emphasized the use of knowledge as a tool for producing security in the community.

Finally, in 1998 Zachary's Law was modified to include non-sexual offenses. Now, legislation passed to include Kidnapping and Criminal Confinement in the covered offenses, if the victim is under age 18 (Indiana Criminal Justice Institute, 1998, p. 2). The inclusion of these non-sex offenses was defended by bill sponsor Indiana Representative Susan Crosby during a press engagement: "These are two crimes that are often committed in connection with a sexual offense against a minor, or in an attempt to molest a child..." (Crosby Bill Expanding, 1998). Also in 1998, Indiana passed its own law applying the designation *Sexual Violent Predator* (SVP) for persons convicted according to certain requirements, and established a board of experts for purposes of determining the subject offender's status as a SVP. These offenders are subject to lifetime registration with law enforcement agencies, and stricter registration requirements (Indiana Criminal Justice Institute, 1998, p. 4). Correctional facilities are responsible for notifying the

state of the release of an offender identified as a sexually violent predator police within three days following their release.

Among other additions, the law specifies that registered offenders are not allowed to file for name changes (unless due to marriage). It also establishes reporting requirements between the Indiana State Police, Department of Correction, and the Federal Bureau of Investigation to address federal registry participation. Indiana's failure to participate in the national registry would have resulted in the loss of about \$2 million in federal funding for crime fighting efforts (Crosby Bill Expanding, 1998).

In summarizing the chapter, it is commonly acknowledged that in the U.S. sexual abuse (particularly of children) is a serious problem, and child molesters and some sex offenders compulsively repeat their crimes with little hope of cure. As discussed earlier, this perception has fluctuated since the late 19<sup>th</sup> century, to include periods of lesser public concern. As during the middle 1970's, increased public concern in some eras was not completely unwarranted; however, both the perceived magnitude and dangerousness of the offenses were often embellished. Social movements aiming for more effective or punitive sex crime legislation often followed a well-publicized series of sex crimes. Shifts in public attention between the intimate offender and the strange perpetrator influenced the direction of social policy. Often, eras that were marked by an increased focus on "stranger-danger" saw the successful passage of more penalizing measures for sex criminals. The



perceived increase in threat of the stranger perpetrator appeared more immediate when coupled with the concern that officials may not be able to determine the potential dangerousness of offenders. The images during the mid-1990's of savage killers and innocent victims made a powerful combination, and anti-crime activists enlisted the public to maintain offenders under community surveillance. Public participation in the supervision of sex offenders has "few precedents in Anglo-American law, at least not since the days when thieves, adulterers, and blasphemers were branded...[to be] identifiable by their crimes," (Jenkins, 1998, p. 199).

Indeed, the sexual murder of a child by a stranger with a history of sex offenses spurred Indiana's registry and notification law, along with those of several other states and the federal government. The countermeasures devised to address the problem of sex offenders commonly aimed at increasing external in internal control measures to reduce re-offending. These prescriptions have widely ranged from retroactive civil and criminal commitment practices that require offenders to remain in or re-enter an institutional setting following their initial release date, to community notification which places responsibility on the community for monitoring the activity of sex offenders in their area. These measures, which offer a variety of legislative responses, have historically been and continue to be devised during and following periods of public panic of sex crime. In discussing the varying

amount of attention paid to sex crime as a social problem throughout roughly the past century Jenkins (1998) states

The consensus is that although earlier panics arose from ignorance, hysteria, and self-interest, contemporary formulations of child abuse are sober depictions of objective truth... In neither our conceptualizing of the problem nor our devising of countermeasures is there much evidence of our having learned from history. Examining past crises over sex crimes shows us not only how claims tend to be exaggerated and distorted, but also that policy responses exhibit the classic signs of panic legislation, namely poor conception and drafting, overly broad scope, and inadequate consideration of likely side effects. (p. 6).

## CHAPTER III

### EXAMINING REGISTRY AND NOTIFICATION

#### Developing a Research Agenda

The original intention of my research was to examine the efficacy of Indiana's law by determining offender recidivism prior to and following the implementation of the law, paying particular attention to the impact of the encompassing modifications. This research goal was thwarted following several attempts to develop or access a means for obtaining accurate criminal histories. Though the registry is intended to include an offender's history of sex offenses, it is not a good source of reliable criminal history information for the purpose of research. Inquiries with personnel at the Indiana State Police and the Indiana Criminal Justice Institute provided that registry accuracy had not been measured, other than an occasional, informal "spot check". At that time, officials indicated that registry inaccuracies were likely high enough to warrant caution in using the data for research purposes.

Limited criminal record checks, such as those available to employers, daycare centers, and schools, were also reported to be an inaccurate means of obtaining criminal histories. This, according to Indiana State Police sources, is primarily due to the inconsistent reporting practices of local police

and sheriff departments to the Indiana State Police Records Division. In addition, the potential for inaccurate criminal history information is furthered by numerous criminal justice sources reporting information on one incident. This results in multiple offenses being reported for one actual offense, often implying a repeated history of a single type of offense.

One alternative source of criminal history information, the NCIC database, is significantly more reliable but inaccessible for research purposes, according to Indiana State Law Enforcement. Use of the NCIC database for purposes other than those specified by law is prohibited. Consequently, I was informed the NCIC database was unavailable for purposes of determining the accuracy of the registry, not only to myself, but also generally as a research tool. With no available means of determining specific offenses through individual criminal histories throughout the state, I was unable to develop a snapshot of sex offender recidivism.

However, the efficacy of policies designed to address convicted sex offenders in the community is not only contingent upon their application; in fact, state policy must primarily generate a "comprehensive legislative and administrative approach to sex offenders" (National Conference on Sex Offender Registries, 1997, p. 93). Without a comprehensive approach aligned with the goals of containment practices such as those outlined in registry and notification laws (affirmed by English, Pullen & Jones, 1996) legislation such as Zachary's Law will not function at peak effectiveness. Therefore, it is also

important to examine if the more micro-level state agency policies and practices have mirrored or currently reflect the stated objectives of the more macro-level registry and notification laws.

### Determining Objectives of Zachary's Law

For this study, objectives of Indiana's Zachary's Law, along with those of the federal registry and notification laws, were determined through examination of news and press articles, government publications, statute, and scholarly papers. These sources provided the rationale and justification for the development and expansion of registry and notification laws, either for the U.S. or Indiana, and I discuss some of these findings.

The practice of notification implies a system that will "...address the threat by allowing parents to advise their children to avoid certain individuals, by facilitating *community monitoring* of released sexual offenders, and by *detering future crimes* by such offenders (emphasis added)..." (Hebenton & Thomas, 1996, p. 441). A 1997 U.S. Department of Justice report summarizing a sampling of notification practices and procedures across the U.S. supports this claim (Finn, 1997). The study found in 21 states that the community notification practices require the proactive dissemination of information whereby officials distribute sex offender information to the community citizen. Eleven states permit distribution upon a community-level request in which the information is provided to individual upon their request or

their research via specified agencies or sources. The latter practice is used in Indiana. The author reported that proponents assert notification promotes community knowledge not only of the presence of an offender, but also of risky behaviors associated with sex offenders (Finn, 1997, p. 2). In summarizing the purpose and practices of registry and notification, the author stated that "registration legislation is intended to deter offender from committing new offenses..." and that supporters feel that community members are better able to protect themselves and their children by identifying and avoiding sex offenders and their deviant behaviors (Finn, 1997, p.2). Another study identified that proponents of community notification suggest "increased surveillance and supervision" as a benefit, as it "alerts convicted offenders that the larger community, not just law enforcement, is monitoring them," (Center for Sex Offender Management, November 1997, p. 3). The study further reinforced that notification is a form of public safety, and that with the knowledge of a sex offender's history, citizens are better able to protect themselves, their children, and the children in their neighborhood.

Indiana legislators, criminal justice representatives, and interest group leaders have also argued that the community's knowledge of a sex offender's residence may reduce sex re-offending and aid in protecting children and women in the community. The original bill enacted in 1994 was heavily touted, and the potential impact was assumed by many to be substantial. In his support of the 1994 bill, Eric Miller, the director of Citizens Concerned for

the Constitution, related that "the potential this bill has to protect children in the state of Indiana is enormous. I think you'll see people (convicted molesters) leave the state prior to the effective date of the bill." (Albert, 1994). During a press conference addressing more recent additions to Zachary's Law, Lake County Sheriff John Buncich said that the registry was not only "helpful to law enforcement...[but] also a tool to deter sex offenders, who are among the hardest to rehabilitate, from committing more crimes," (Beeler, 1998).

#### Registry and Notification as Sources of Social Control

Like many structures within the criminal justice system, sex offender registration and community notification practices are a form of social control. Sources of social control are often located within the individual; however, social control also refers to "the ability of social groups or institutions to make norms or rules effective," (Reiss, 1951, p. 196). Modern penal institution design has afforded criminal justice workers the ability to constantly monitor offender behavior within the facility. Current design not only permits near total surveillance and knowledge of prison activity, but also functions as a source of power when unmanned. Prisoners are often unclear if they are being watched, effecting the result of prisoners coming to control themselves (Ritzer, 1997, p. 60). Clearly, the employment of this design is not only to

function as a form external social control, but also modify behavior by instilling within the prisoner the possibility that he or she is being watched.

This concept can be similarly applied to registry and notification practices. As with current prison design, registry and notification not only provides the knowledge to keep track of known sex offenders to those charged with monitoring them (law enforcement and community members), but also instills the registered sex offender with an understanding that they are being watched by their community. While investigations commonly examine legal controls, primarily those related to actions and sanctions administered by criminal justice agencies/agents (Sampson, 1987), a broader application of social control includes an examination of the structural features of the community. Registry and notification laws exercise the assumption that the community has the ability to affect offender behavior. With this legislation, the obligation for monitoring through registry and community notification is placed more heavily upon the community rather than criminal justice officials.

#### Significance of a Comprehensive Approach

Several studies on registration and notification support that designing a comprehensive approach is necessary in sex offender policy and practice. In order for Zachary's Law's objectives to be realized, they need be reflected in the policies and practices addressing sex offenders within the agencies of Indiana's criminal justice system. In 1994, one such study conducted for the



U.S. Department of Justice examined the management of sex offenders in the community, and sought the cooperation of criminal justice and social service agents in 13 jurisdictions within six states including Arizona, Colorado, Louisiana, Ohio, Oregon, and Texas. [n]otification becomes *one tool*, along with curfews, the polygraph, and special restrictions, to manage sex offenders in community settings," (Finn, 1997, p. 16, emphasis added). In a report on sex offender management approaches published by the American Probation and Parole Association, researchers concluded that if the goal of community notification is to enhance public safety there is little evidence to suggest that *community notification alone* will accomplish this," (English & Pullen, 1996, p. 12). The research indicated a need for policies and practices in addition to registration and notification to anticipate an effect upon offender behavior.

Based upon the survey of the literature, practices and policies that are designed for sex-offender specific management need to be consistent within agencies of Indiana's criminal justice system in order to be effective. For example, in a recent study, researchers sought to identify a model process for managing sex offenders who are serving their sentence in the community. The researchers conducted a national telephone survey of probation and parole agencies (English, Pullen & Jones, 1997). Their results emphasized the necessity for consistent public policies, and cautioned, "no matter how good the design and implementation of sex offender-specific containment practices, these cannot function at peak effectiveness without the support of...consistent

public policies,” (English, Pullen & Jones, 1997, p. 13). Ideally, local criminal justice officials should collaborate with the State legislators, judicial and correctional departments, and governor to “develop policies reflecting the latest thinking about the management of sex offenders,” (English, Pullen & Jones, 1997:14). In addition, English, Pullen and Jones note that sex offender community notification is among one of the critical policies on which to obtain jurisdiction-wide agreement.

In general, research suggests that it is important that agencies present policies that are consistent with those of the State and other agencies; therefore, I gleaned that it is necessary for Indiana’s agencies and legislation to also be consistent in the management of sex offenders in the community. This research examines one such agency, the Indiana Department of Correction, and to see if its policies and practices are consistent with the objectives of state registry and notification laws. While Indiana’s criminal justice system is composed of many agencies, the Indiana Department of Correction (IDOC) is a sizable institution that is charged with the supervision of many of Indiana’s convicted sex offenders each year, including their incarceration, parole, and release. The IDOC’s policies and practices regarding sex offenders, therefore, is an appropriate agency to examine to see if Zachary’s Law is supported by a criminal justice system-wide approach to sex offenders.

## CHAPTER IV

### METHODS

#### Study Objectives

This study examines if the actual goals of Indiana Department of Correction policy and practice reflect the selected goals of Zachary's Law (1994-1997): (1) the intention to positively effect convicted sex offender behavior in the community, and (2) increase community knowledge of sex offenders for self-protection). I will investigate whether the policies and practices of the IDOC reflect intentions to: (1) positively effect community protection; (2) positively change offenders' behavior in the community; (3) effect a combination of both; or (4) produce neither of these conditions.

#### Method

To accomplish the goal of this project, I identify trends in (1) the development of corrections policy for addressing sex offender community reintegration and management designed to produce positive change in offender behavior; and (2) admission and release of sex offenders incarcerated with the IDOC who are covered under Indiana's Sex and Violent Offender Registry of 1998 (excluding juveniles). The parameters include FY

1989 through 1998, or four years prior to and following the implementation of Indiana's sex offender registry and notification policies.

#### IDOC Policy: Documentation

The literature review for studies regarding the relationship between sex offender registry legislation and criminal justice agency policy generated no example previous research. The method for obtaining policy information was developed upon recommendations of the IDOC and the Indiana State Library. Several IDOC officials were questioned regarding the reliability of the Indiana Code, the Indiana Administrative Code, and IDOC Department and Division Director interviews combined as a source of IDOC policy. Each of those consulted indicated that these are the most reliable, available sources for this information. While policy manuals for each department within the IDOC exist; reviewing all manuals in the necessary departments from 1989-1998 would not have been feasible for this study.

Information collected from the Indiana Code and the IDOC were used to identify trends in policy making and implementation of policy regarding sex offender management and reintegration. The policy documentation was obtained from the Indiana Code Annotated (IC) Title 11 Corrections (which includes Parole), and the Indiana Administrative Code (IAC) Titles 210 Department of Correction and 220 Parole Board applicable to the years 1989 through 1998, available at the Allen County Public Library in Fort Wayne,

Indiana. In addition, any amendments to the policies being examined, which are identified in the Indiana Code as "history", were searched in the Lexis-Nexis Legal Research database in the Indiana Code Advanced Legislative Service. These amendments, or public laws, identify all additions and deletions made to the policies being examined by year of passage. Each IDOC department policy manual directly responds to and must reflect the direction of the current IC Title 11 and IAC Titles 210 and 220 in addition to public laws filed as amendments to these titles. As discussed earlier, review of actual policy manuals from FY 1989 through FY 1998 would have been not only an unmanageable task, but also unnecessary as the manuals are to reflect the statute outlined in the Indiana Code and Administrative Code. Several sources at the Department of Correction confirmed that seeking accurate IDOC policy information from the Indiana Code and the Indiana Administrative Code, combined with the interviewing of IDOC officials in the participating departments, was appropriate and sufficient. One Division Director indicated his frequent use of the Indiana Code to confirm department policy. These documents, however, do not function as the sole source of policy information.

#### IDOC Policy and Practice: Interviews

Interviews with IDOC department and division directors were conducted to confirm and expand upon the information obtained from these

documents. Contact persons were department or division directors and selected based upon their ability to verify the development and implementation of policy from FY 1989 through FY 1998. The Public Information Officer, along with the Director of Planning, provided direction in identifying individuals able to provide relative information. In addition, potential interviewees were determined by accessing the departmental list of employees. Department officials were contacted directly (several requested interview arrangements be coordinated through the Director of the Planning), and their suggestions to contact others at the IDOC central office were also followed. Through the use of Email communication, I initially requested face-to-face interviews regarding points of clarification on agency sex offender policy and the developments regarding said policy, and practice prior to and following Zachary's Law. Some declined participation citing that they had little or no involvement in and knowledge of the management and/or reintegration of sex offenders. Based upon the above conditions, those participating in interviews included persons from the divisions of Administration, Adult Operations, and Programs and Community Services.

The interviews were conducted at the Department of Correction home office located in the Government Center in Indianapolis, Indiana. Personal offices were used for the interview, and the participant was informed the process would last one hour. The researcher informed the interviewee that all questions were directed toward adult operations. The interviewer recorded

all responses in writing. To reduce the participant's potential for concern of confidentiality, and improve topic elaboration, the interviewer refrained from using mechanical recording devices. The interviews were designed to not only address policies which were identified in the IC and IAC, but also to gather information which may have not been outlined in these documents. The schedule allowed for elaboration and discussion by the interviewee, and provided opportunity for clarification by the interviewer.

All interviews were conducted in person with one exception. After several attempts to schedule and reschedule this interview, the interviewee, facing time constraints of other projects, requested that interview questions be provided to him and he in turn respond by forwarding relevant, explanatory documents to the researcher. Other participants also voluntarily provided documentation to support or clarify their responses.

#### IDOC Practice: Admissions and Release Data

Data regarding IDOC admissions and releases is available through the Division of Planning, and can be generated by county and by total population. Rather than select a random sample of counties from Indiana's 92 counties, I quartered Indiana by geographic areas, attending to the distribution of the state population, resulting in Northwest, Northeast, Central, and Southern regions. Regional designation allows for a more focused discussion of how IDOC policy and practice may be impacting community level participation in

monitoring sex offenders, and provides greater opportunity for citing examples of community-based effects.

### Development of Sample

The Northeast region was chosen based upon several criteria. The measurement of the criteria was first based upon 1990 U.S. Census Data and information obtained through the U.S. Bureau of the Census. The sample contained a representation of large cities, moderate towns, and rural areas, necessary to properly examine the trends in admission and release, as some of the resulting data is indicative of local-level interventions. In addition, the region not only closely represented one quarter of the state geographically, containing 23.9% of the counties in the state, but also held 25% of the population in Indiana (U.S. Bureau of Census, 1996). Profile statistics for the Northeast region closely represented those of the State of Indiana in percent of high school graduates, unemployed persons, and births to mothers below 20 years of age (See Appendix A). The region was slightly higher than Indiana's average for both non-farm and farm establishments in 1992. The region was slightly lower than the Indiana in average number of college graduates.

The other regions presented issues that could have led to a less accurate or poorly representative sample. These problems were drawn to the researcher's attention early in the development of this project. The Northwest



region was eliminated because of concerns for the integrity of the data. Several criminal justice officials reported to the researcher that one of the most populated areas in the Northwest region has historically been less apt to provide other agencies with accurate or complete information, for example transfer information. I was also advised that Southern region's lower counties are likely not reflective of the practices of the remainder of the state in regard to sex offender management. Several sources indicated that some local-level criminal justice agencies within the region have visibly not supported the practice of community registration and notification, and may respond to sex offenses with less legal resolve than most other counties in the State. The Central region was considered not representative as it contains an imbalance of large, moderate, and smaller sized cities. For example, Marion County alone, which contains Indianapolis, represents 13.8% of the state's population. Therefore, of the population in the Central region, roughly 55% resided in Marion County. Consequently, the most representative section likely to produce accurate information is the Northeast region.

### Data Collection

The IDOC's Department of Planning provided population data pertaining to sex offenders incarcerated with the IDOC between FY 1989 and FY 1998, and convicted of a sex offense within any of the stated 22 counties in the Northeast Region of Indiana. In addition, the IDOC provided system-

wide data for comparative purposes. All data files maintained by the Indiana Department of Correction are set up in six-month increments. In order to show offender admissions and releases by demographic information, it was necessary for the IDOC analyst to prepare separate tables as such. For each table within a query, the same parameters and guidelines apply.

A research analyst in the Division of Planning, experienced in generating reports regarding IDOC sex offenders, prepared the population data for this study. The Indiana Department of Correction combines those convicted of Rape, Criminal Deviate Conduct, Child Molesting, Child Exploitation, Vicarious Sexual Gratification, Child Solicitation, Child Seduction, Sexual Battery, Sexual Misconduct with a Minor if an A or B felony (see Appendix B for criteria of felony classification), Incest, Indecent Exposure, Voyeurism, Aiding/Inducing Child Molesting, or Attempt to Commit Child Molesting as sex offenders. All data provided by the Department of Correction on sex offender populations includes individuals whose most serious admitting conviction is one of these crimes.

The offender database (OIS) maintained by the Department of Correction is the source of raw data for this project. The Planning Division uses a statistical software program (SAS) to convert the data from the OIS system. The system currently allows the data operator to input up to six committing offenses for which the offender is serving time. Prior to January 1, 1998 program files only allowed the input and query of the offender's most

serious committing offense. Therefore, to maintain consistency and prevent counting an offender more than once, the analyst categorized offenders according to their most serious offense throughout all queries. Due to this limitation, some sex offenders will not be included as they had committed a non-sexual offense that was categorized as a more serious crime. The analyst indicated that from previous queries they had conducted, the difference between the number of offenders whose most serious offense is a sex offense, versus other offenders with more serious criminal charges, is about ten percent. Thus, many of the sex offender totals received resulting from the analyst's tabulations do underestimate, by some small percent, the actual number of sex offenders the IDOC had at that time.

#### Demographic Description of Sample

As stated earlier, trends in admissions and releases for those with commitments from the region are examined for this study. To compare the sample region with the population, Table 1 shows the number of sex offenders admitted to and released from the IDOC between FY 1989 and FY 1998 from the twenty-two county region and system-wide. The table illustrates the percentage of those sex offenders (% Regional) with commitments from the designated region (Sample Region) as compared to system-wide (IDOC Wide).

Table 1  
Sex Offenders Admitted to or Released from IDOC  
FY 1989 - FY 1998

Fiscal Year	Admissions			Releases		
	Sample Region	IDOC Wide	% Regional	Sample Region	IDOC Wide	% Regional
1989	122	448	27.23%	42	163	25.77%
1990	119	497	23.94%	98	419	23.39%
1991	171	550	31.09%	121	417	29.02%
1992	142	519	27.36%	116	468	24.79%
1993	173	655	26.41%	138	493	27.99%
1994	239	670	35.67%	169	578	29.24%
1995	221	772	28.63%	188	607	30.97%
1996	220	731	30.01%	172	585	29.40%
1997	215	722	29.78%	192	661	29.05%
1998	199	680	29.26%	182	600	30.03%
Total	1821	6244	29.16%	1418	4991	28.41%

For data collected from the Department of Correction Planning Division, *sex offender* is defined as an admission whose most serious offense is a sex offense covered by Zachary's Law in addition to any of the following offenses: Indecent Exposure, Voyeurism, Aiding/Inducing Child Molesting, and Attempting to Commit Child Molesting. Though the IDOC includes these sex offenses not covered by Zachary's Law in their definition of a sex offender, the offenders admitted for one of these offenses constitute only 0.88% of all sex offenders admitted between FY 1989 and FY 1998.

The sample includes 1794 male and 27 (1.48%) female admissions. The ethnic composition of the admission sample is 79.02% white, 15.76% African American, 3.40% Hispanic, and 1.98% of other descent. The sample also includes IDOC released 1418 offenders, or 1401 males and 17 (1.20%) females, whose most serious offense for confinement was a sex offense committed within the twenty-two county region. Of these persons, 80.89% were white, 15.16% were African American, 3.31% were of Hispanic background, and .63% of other descent. (Percentages do not total to 100% due to rounding).

In identifying the composition of the IDOC sex offender population from FY 1989 through 1998, I also examined admission data to determine the intake of the various sex offenses. Table 2 indicates the number of admitted offenders from the 22 county region whose most serious offense is a sex offense.

Table 2  
Admissions from Sample Region by Sex Offense Type from  
FY 1989-1998

Offense	No. of Cases	Mean	Range	<u>SD</u>
Aid/Induce	1	.002	0-1	0.047
Attempt	9	.020	0-2	0.171
Child Exploitation	4	.009	0-2	0.117
Child Molesting	1290	2.932	0-21	3.334
Child Seduction	4	.009	0-1	0.095
Child Solicitation	3	.006	0-1	0.082
Deviate Conduct	58	.132	0-3	0.412
Incest	12	.025	0-1	.156
Indecent Exposure	5	.011	0-1	.106
Rape	196	.446	0-8	1.072
Sexual Battery	114	.259	0-4	.574
Misconduct/minor	119	.271	0-4	.656
Vicarious sexual	5	.011	0-1	.106
Voyeurism	1	.002	0-1	.048

The table illustrates admissions of convicts to the IDOC, from the 22 county region, whose most serious offense is a sex offense (including registry and non-registry sex offenses). Voyeurism, Indecent Exposure, Aiding or Inducing, and Attempt are inclusive in non-registry offenses. As stated earlier, only 0.88% of all sex offenders admitted had a non-registry sex offense as their most serious offense for which they were incarcerated.

For the observation period, offenders admitted whose most serious offense was child molesting represented 70.88% of all sex offenses. Rapist composed of 10.77% of sex offender admissions from FY 1989-1998, while those convicted of Sexual Battery represented 6.15%. Only 0.66% of all admitted sex offenders had Incest as their most serious offense, and another 10.66% were admitted for the remaining registry offenses listed in Table 2.

## CHAPTER V

### FINDINGS

#### Assessing the Findings of the Research

In assessing the findings of this research, I incorporate recommendations and points made in two studies that specifically examined Indiana's criminal justice system and the IDOC. Significant recommendations were made in "A Long-Range Plan for Indiana's Criminal Justice System" prepared by the 1990 Indiana Corrections Advisory Committee, and a 1994 study funded by the National Institute of Corrections' Prisons Division and prepared by national authorities on sex offender management Dr. Nancy Steele and Dr. Barbara Schwartz. The later was requested by the IDOC. The study was conducted and the resulting recommendations made by national authorities on sex offender management Dr. Nancy Steele and Dr. Barbara Schwartz. The recommendations and points addressed are discussed throughout these findings as they function in part as a template for my analysis.

The three significant recommendations made by the Indiana Corrections Advisory Committee in 1990 were "mandatory supervised re-entry, participation in this re-entry through work release, and specialized



treatment in prisons including residential therapeutic communities,” (Steele & Schwartz, 1994, p. 2). In their study completed four years following these recommendations, Steele and Schwartz gathered information from an IDOC self-conducted sex offender programming summary; visited and interviewed staff at the Sex Offender Treatment Program at the Indiana State Reformatory; met with facility treatment providers and Chief Psychologists; reviewed “A Long Range Plan for Indiana’s Criminal Justice System” prepared by Indiana Corrections Advisory Committee and “Task Force on Sex Offender Treatment Programs Report to Indiana Department of Correction Executive Staff prepared by John Clodfelter, Ph.D.; and conducted interviews/meetings with representatives from major adult institutions and executive staff (Steele & Schwartz, 1994).

With the results from this project, IDOC was seeking to develop sex offender specific programs, a goal initiated in 1994. Following their investigation, these researchers outlined their recommendations and responses to questions in a planning report to the Indiana Department of Correction. Steele and Schwartz made note of problems in treatment, community transition and classification, and provided a brief description of solutions to address these concerns. Their report made several recommendations which significantly focused on: standardizing and concentrating treatment efforts and providing specific treatment modules to offenders of greater risk or upcoming release sexually aggressive pattern of

behavior; developing and administering risk assessments; establishing a series of voluntary sex offender groups; addressing the conflict of offender movement and treatment provision; and allowing for transition of sex offenders into the community. The problems noted and the solutions proposed in their report are discussed throughout this chapter.

### Trends in Community Corrections Programming and Sex Offenders

Initiated in 1981, Community Corrections is the only funding program in the IDOC, with a 1999-01 biennium budget of 33.4 million dollars serving 62 counties within the state of Indiana, some of those counties serving additional smaller counties. The purpose of Community Corrections is to encourage counties to develop coordinated local corrections and criminal justice system, and to provide effective alternatives to state imprisonment (Indiana Code Annotated, Title 11, Article 12, 1999).

Programs provided through community corrections include home detention and house arrest, drug testing and day reporting, work release and residential programs, community work service and restitution, work detail, and victim offender mediation. Programs are not supervised by IDOC; instead, the IDOC contracts for services with the participating county commissioners and can determine eligibility of an offender for the program. Community Corrections grant participants are encouraged by IDOC to recognize effective methods of managing sex offenders in the community, and local level agents,

including community correction board members, probation officers, and judges are invited to attend IDOC sponsored training. Local community correction advisory boards function to further define requirements and restrictions for their programs, and monitor program development and implementation.

Local programs are operated as independent agencies under contract or as a division of a local criminal justice department. Those employed with community corrections are not employees of the state, but rather the participating county. Those counties not participating in IDOC funded community corrections may choose to provide these services through their probation offices, but do not receive the supporting funds.

Of the twenty-two counties in the sample, 12 counties, or 54.5%, participate in Community Corrections programming. Eleven of these counties currently maintain programs with grants through the IDOC while one county, Cass, provides community correction services as a regional program in conjunction with a county outside of the region selected. The region also contains one IDOC work release facility, located in St. Joseph County (South Bend), Indiana. While Community Corrections has several components, minimum security release programs, such as work release and day reporting, and house arrest/home detention are two programs that have adopted significant policies and practices for sex offender participation.

### Minimum Security Release Programs

In review of correction policy, the 1988 Indiana Code provides the establishment of minimum-security release programs for criminal offenders. According to the statute, the IDOC needed to establish a program in which eligible offenders may be temporarily released from custody to participate in activities such as work, training, or treatment (Indiana Code Annotated, Title 11, Article 10, 1988). As a condition for participation, the offender must have been assigned to a minimum-security classification prior to his/her appointment; however, violent and sex offenders were not excluded from eligibility. In addition, confined criminals could temporarily leave an IDOC facility for a designated time if granted by a department employee or custody agent, but were required to be accompanied unless considered a minimum security inmate. The department established directives governing the implementation of this policy, including an offender's eligibility. The department did not restrict the temporary release of sex offenders in their policy, and instead directed the Chief Administrative Officer of the confining facility to "consider" a history of illegal sexual acts in granting temporary leaves (Indiana Administrative Code, Title 210, Article 1, 1988).

### Suspension of Programs

The event of Lisa Bianco's murder on March 4, 1989 by an inmate on a weekend furlough prompted the call for swift and widespread change in IDOC

policy. Following the murder, state prison community-based release programs were suspended by then Governor Evan Bayh, who indicated program operation failure was a factor in the tragedy. "I understand proper procedures were not followed, and we're going to find out what happened, discipline those who were involved, [and] re-evaluate the whole program to see if it makes sense," Bayh remarked (Associated Press, 1989). According to the Board of Correction report released March 13, 1989 in response to the incident, prison officials failed to notify Bianco of Matheney's release from the Indianapolis complex despite her requests for notification and Matheney's repeatedly expressed threat toward her (Matheney Will Plead, 1989). On March 15, 1989 all passes from the furlough program were suspended to allow for a review of the program along with work release and "good-time" programs.

The March 15 decision marked a turn in managing violent offenders in the community. Following the recommendations made in a report organized by then Correction Commissioner James Aiken, the community-based program that allowed Matheney to obtain a leave from prison was abolished. In addition, the state Department of Correction immediately began the development of the victim-witness bill discussed earlier in this report.

### New Participation Standards

The most significant change was the initiation of new eligibility standards established for work release and regulated community assignment.

Work release had allowed inmates to individually leave prison to work at private jobs, while regulated community assignment provided that inmates close to their release date could live at home, maintain employment, and report to correction officials weekly (Dieter, 1989). Following Matheney's offense, Public Law (P.L.) 136-1989 restricted those having been convicted of a violent crime<sup>2</sup> to include a felony or Class A misdemeanor that results in bodily injury or death to the victim) from participating in minimum security programs which require weekly reporting. This policy promoted the exclusion of sex offenders from participating in temporary release programs.

#### Criticism of Sex Offender Exclusion

In the years following this passage of the above policy, studies on sex offender management critically addressed the exclusion of sex offenders from these programs, particularly work release. In 1990, a committee assembled to address the IDOC's possible development of a comprehensive and integrated treatment program for sex offenders. Among the three significant recommendations made in "A Long-Range Plan for Indiana's Criminal Justice System" prepared by the 1990 Indiana Corrections Advisory Committee, was sex offender participation in work release during the final stage of mandatory supervised re-entry (Steele & Schwartz, 1994). Steele and Schwartz clearly indicated in their report the importance of sex offender participation in

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<sup>2</sup> As defined in Indiana Code Annotated Title 5, Article 2 (1999)

supervised re-entry programs such as work release. The submission stated, "A critical issue which the Department must wrestle with is the placement of sex offenders in Work Release facilities," (Steele & Schwartz, 1994). The authors continue by emphasizing that the community transition is not possible as sex offenders are restricted from these programs, a practice "not in the best interest of public safety." The report cites a previous assessment that concluded that, "This practice must end. If there is any group in need of a more gradual and highly structured re-integration into society, it is the sex offenders! Women and children in Indiana should have this protection and safe guard," (Steele & Schwartz, 1994).

Despite these recommendations, a bill was introduced and legislation passed banning sex offenders specifically from participating in certain community transition programs. The bill was submitted in reaction to a case in Evansville in which a felon convicted of sexual battery was part of a Vanderburgh County community corrections program (Shackelford & French, 1995). As part of the program the convicted sex offender was allowed to leave a controlled setting and work as a food delivery person. In October of 1994, however, he was accused of sexual assault. The community residents, following the accusation, were outraged that he was allowed to participate in this type of work as part of his incarceration. This event led to the greater concern for sex offenders participating in any program that allows their interaction with the community.

Following these events and in opposition to the recommendations of the Steele and Schwartz report, P.L.144-1995 passed as an emergency act to specifically establish and ensure that sex offenders<sup>3</sup>, in addition to violent offenders, are automatically considered ineligible for programs requiring weekly reporting, including home detention and electronic monitoring. While sex offenders had previously been excluded from participation in practice, policy now existed to disallow their appointment to these programs.

#### Home Detention/Electronic Monitoring Programs

With the passage of P.L. 144-1995, correction policy banned home detention, a community corrections service, for sex offenders convicted of a felony. The passage of the rule also impacted the latitude of local sentencing judges and community programs. In communities that allowed for sex offender participation, the option of community corrections sentencing was at the discretion of the sentencing judge prior to April 25, 1995. The exclusion of sex offenders from eligibility for home detention programming forced judges to send felons to prison or release them to probation. However, a loophole allowed for sex offenders receiving a split-sentence, where the defendant serves some time and the balance is suspended, to continue to be placed in community correction programs after 1995 under this condition. Though the loophole allowed for some to enter the program, the number of sex offenders

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<sup>3</sup> As defined in Indiana Code Annotated Title 35, Articles 42, 46 (1999)



in home detention did decrease significantly as a result of P.L.144-1995, according to officials.

Community Correction Advisory Boards had more discretion in including or excluding offenders prior to the 1995 decision, evident in the differing program policies and practices. For example, in March of 1995, Allen County had thirteen sex offenders, or 5.9% of the total participants, on home detention (Shackelford & French, 1995). In contrast, St. Joseph County had no sex offenders on home detention. The executive director of the St. Joseph program explained that they refrain from placing child molesters on home detention as it places any child at risk. Following the decision, however, the inclusion of these offenders for community integration was no longer at the discretion of the local advisory boards.

#### Sex Offender Participation in Region

To examine the practice of releasing convicted sex offenders to a community-based release program, or RCA, release data identifying release type was provided by the Division of Planning for the 22 counties in the Northeast region. Of the 1418 offenders from the 22 county region released between FY 1989 and FY 1998, none were released to a community-based release program.. In a correspondence, Division of Planning Analyst Kristin Greenawalt (1999) provided an explanation of the RCA release type with the release data, stating:

RCA was a community-based release program that was in effect until the early 1990's... Through RCA, an offender would be released from IDOC with some form of community-based supervision. Governor Evan Bayh revoked this program, however, due to a homicide committed by an offender (Matheney) upon his release. Mr. Matheney was not released to RCA, though. He was on a weekend furlough when the crime was committed.

In fact, the policy changes prior to and following Zachary's Law placing stringent admission requirements on offenders for work release. This proved frustrating for communities in the region trying to address problems of overcrowding and public safety. In St. Joseph County during 1994, for example, local criminal justice officials expressed that the Department of Correction's revised policies failed the safety of their community. Circuit Judge T. A. Crone of St. Joseph County indicated that the county was experiencing significant jail overcrowding, and the South Bend Work Release Center in St. Joseph, operated by the IDOC, was unable to provide relief due to its stringent admission criteria established through IDOC policy (Helene, 1 September 1994). Judge Crone reported that while the county's community corrections program (receiving IDOC grant support) at the Ducomb Center maintained a waiting list, the Work Release Center had 40 empty beds. Few of the Ducomb residents qualify for admission to work release under IDOC's criteria; therefore, the beds remained unused while offenders remained in the community through home detention, rather than live at the work release center with greater supervision. Judge Crone cited a then recent example of the failure of this system. A man on electronic monitoring through the Ducomb

Center sexually assaulted a woman in her home. He lived across the street from the victim and had been convicted of breaking into her home the previous year. He was on electronic monitoring as there was no room for the offender in any other facility appropriate for his sentence. The lack of effort and progress by IDOC officials to change its policy, Crone asserted, is “a direct result of its unwillingness to take any risk as a result of the Alan Matheney incident, and it’s doing more harm than good,” (Helene, 1994).

### Trends in Parole and Sex Offenders

Parole supervision includes the monitoring of offenders following their release from prison by an assigned parole district. Indiana has eight parole districts across the state; the twenty-two county region selected as a sample contains three parole districts. These include: District #2 in Fort Wayne (Allen County), supervising LaGrange, Steuben, Kosciusko, Noble, DeKalb, Whitley, Allen, Wabash, Adams and Wells counties; District #8 in South Bend (St. Joseph County), supervising St. Joseph, Elkhart, Marshall, Fulton, Cass, Miami, Howard, and Tipton counties; and District #7 in Henry County, supervising Grant, Blackford and Jay counties, and eight other counties outside of the selected region. Of the IDOC sex offender inmates with committing convictions from one of the twenty-two counties included in this analysis, 49.65% of those released between FY 1989 and FY 1998 were

discharged to parole supervision. Figure 1 illustrates the proportion of release to parole as compared to other release types for the sample region.

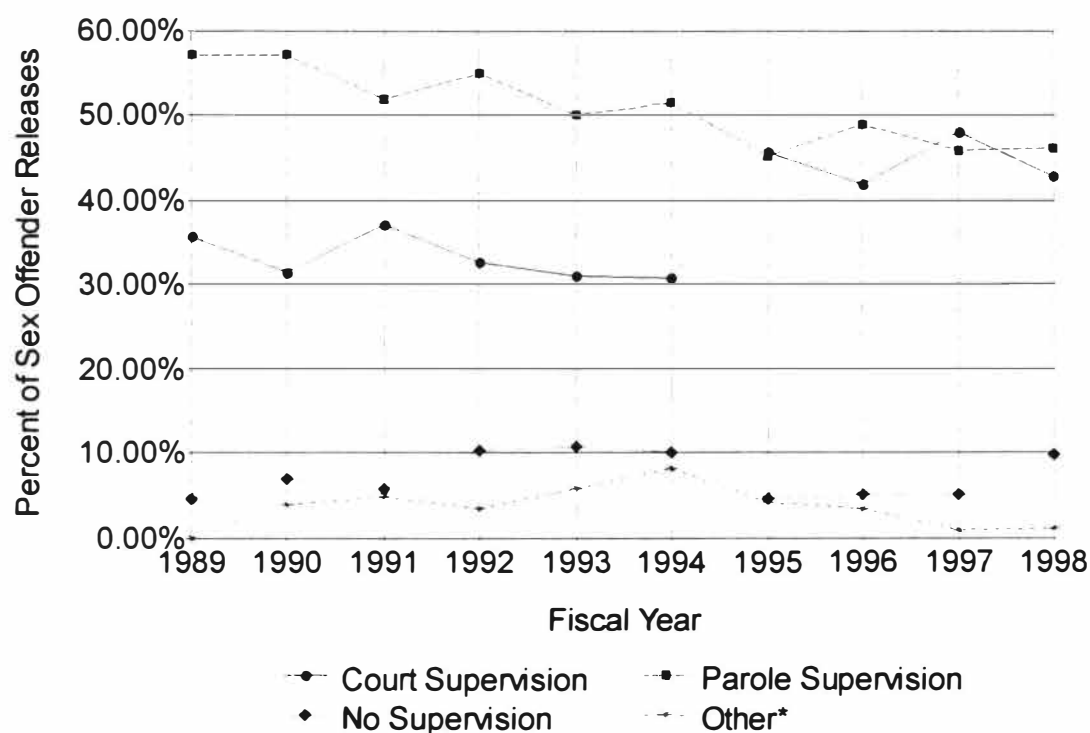


Figure 1. Distribution of Percent of Sex Offender Releases from 22 County Region.

\*Other includes Death, Transfer to out-of state parole, Temporary movement out to court, and Discharge to another jurisdiction (often for other criminal charges).

### Special Conditions

Sex offenders released to parole saw additional special restrictions applied to their conditions of parole supervision in the mid-1990's. Special conditions are an option for the parole board to initiate upon the release of an

offender from an institution to parole (Indiana Administrative Code, Title 220, Article 1.1, 1991), and were applicable in 1989. A discussion of these conditions and their adoption follows.

### Conditions Restricting and Mandating Behaviors

An agency representative familiar with parole policy and practices reported that the late 1980's and early 1990's were marked by an increase in scrutinizing sex offender behavior in the community through more frequent contacts, particularly those in the field. For example, no longer were office contacts considered to be sufficient in monitoring sex offenders' behaviors, and parole agents began to routinely require parolees to participate in drug testing and psychiatric treatment. Indeed, P.L.67-1990 allowed the parole board to require a parolee to undergo chemical tests to detect or confirm the presence of a controlled substance; and enforced the possession or use of alcohol or controlled substance as a violation of parole.

Though the option of exercising the application of special conditions was previously available, restricting unsupervised contact with children by convicted sex offenders began in 1989, according to one agency representative. This condition was primarily used upon an agent's suggestion, and not until 1994 were parole conditions again modified to include this restriction. The new conditions included a specification for sex offenders, and stated that as a condition of parole, the board may require a

sex offender to (1) participate in a treatment program approved by the board, and (2) avoid contact with any person who is under age 16 unless the parolee receives board approval or successfully completes treatment as assigned (P.L.11-1994).

When asked about the historical practice of mandating treatment, the interviewee responded that treatment had “pretty much always been required”, but now more frequently applied. In clarifying, the interviewee indicated that in the late 1980’s and beginning 1990’s, sex offender therapy focused heavily on chemical solutions, and the offender was often treated with drug therapy. The released offender was frequently required to participate in counseling; yet, there were few centers with therapists trained specifically in sex offender treatment. Those released to more rural locations were further disadvantaged by the lack of adequate counselors. In counties where expertise in the field was greater and county-level officials organized interest, community based sex offender programs developed.

#### Adopting Additional Routine Special Conditions

Within the past several years (combined interviews indicate since FY 1995), parole conditions have become routinely applied, and the Indiana Parole Board adopted a checklist for sex offenders to include standard and special stipulations. Standard conditions include those indicated earlier, and requirement of enrollment and steady progress in sex offender treatment.

Offenders must also sign a waiver of confidentiality to allow parole officers to communicate with treatment providers and law enforcement. They must inform all persons living with them of their sex convictions before they establish their residency following release from prison, and may not contact the victim or their family unless approved and supervised. Finally, stipulations include restricting offender residence to exist more than 1,000 feet from parks, care centers, pools, theaters or other places where children (under age 18) congregate.

Special stipulations that may be applied at the discretion of the board include a variety of restrictions including further instructions for complying with medical and chemical treatments. The sex offender may be restricted from possessing all sexually arousing materials, purchasing these materials or services, or gaining access to these materials by any means including via computer, telephone or Internet sites. In fact, accessing on-line services may be restricted without prior parole agent approval; and the offender's computer equipment and files are subject to unannounced examination and may be electronically monitored. In addition, they may be disallowed from having published personal advertisements in their home, and may not establish a dating relationship without approval from their parole agent.

The parolee may have to agree to DNA testing along with providing urine, blood or saliva samples. To reduce the offender's potential for luring children, they may be restricted from possessing toys or games, or

participating in activities that may be “enticing” to children. In addition, as a special condition they may be restricted from working or participating in organizations which may allow the offender to have contact with children, such as door-to-door salesmanship or religious youth groups. Mechanical testing, such as polygraph or plethysmograph (an instrument used to determine the amount of blood in or passing through an organ or limb; in the case of male sex offenders, the organ monitored is the penis), can be required for participation in parole; and electronic monitoring is an option for the parole board to mandate.

One interviewee indicated that many of these special conditions allow the parole agent in the community more opportunity to (1) identify and respond to behaviors that indicate a potential for re-offending, and (2) disrupt the daily routine of the offender so that deviancies may be revealed. These conditions are precautionary and intended to allow the offender’s placement on parole to be revoked on technical violations prior to their further victimization of community members.

To examine the use of technical violations for sex offenders on parole, I compiled reports provided by the IDOC on general admissions for drug, sex, violent, and property offenders between 1989 and 1998 (information provided system-wide only). These reports, generated through the Division of Planning, indicated the number of admissions under specific intake codes for each offense type. The intake codes include: New Commitment, New



Commitment with Indiana Prior, Parole Technical Violation, Parole Violation with New Commitment, Probation Technical Violation, Probation Violation with new Commitment, Court-Ordered Return with New Commitment, En Route to Another Destination, In Facility Awaiting Action, Escapee Returned, Escapee with New Commitment, Interstate Compact-New, Interstate Compact-Returned, Predisposition, and Safekeeper. The relative frequency of parole technical violation intakes for each category of offenders was determined. Figure 2 indicates the percentage of male offenders, by their offense type, admitted to IDOC as parole technical violation intakes.

In examining the overall frequency of intakes of parole technical violations from FY 1989 to FY 1998 for all categories, including property<sup>4</sup>, sex, drug, and violent offenders (See Appendix B), the change in percent of these admissions was greater for sex offender intakes than for the remaining groups of offenders. It is important to note that violent offenses, defined as “those which cause bodily injury, psychological harm or personal deprivation” by the IDOC Planning Division include some sex offenses (See Appendix B).

During FY 1989, 3.61% of all sex offender intakes were for parole technical violations; while 2.07% of drug offenders, 7.21% of violent offenders, and 9.46% of property offenders had parole technical violations intakes statuses. In FY 1998, however, 9.45% of all sex offenders were admitted as parole technical violators, while 4.81% of drug offenders, 7.56% of violent

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<sup>4</sup> As defined in Indiana Code Annotated Title 35, Article 43 (1999)

offenders, and 8.82% of property offenders had an intake status of parole violation with technical.

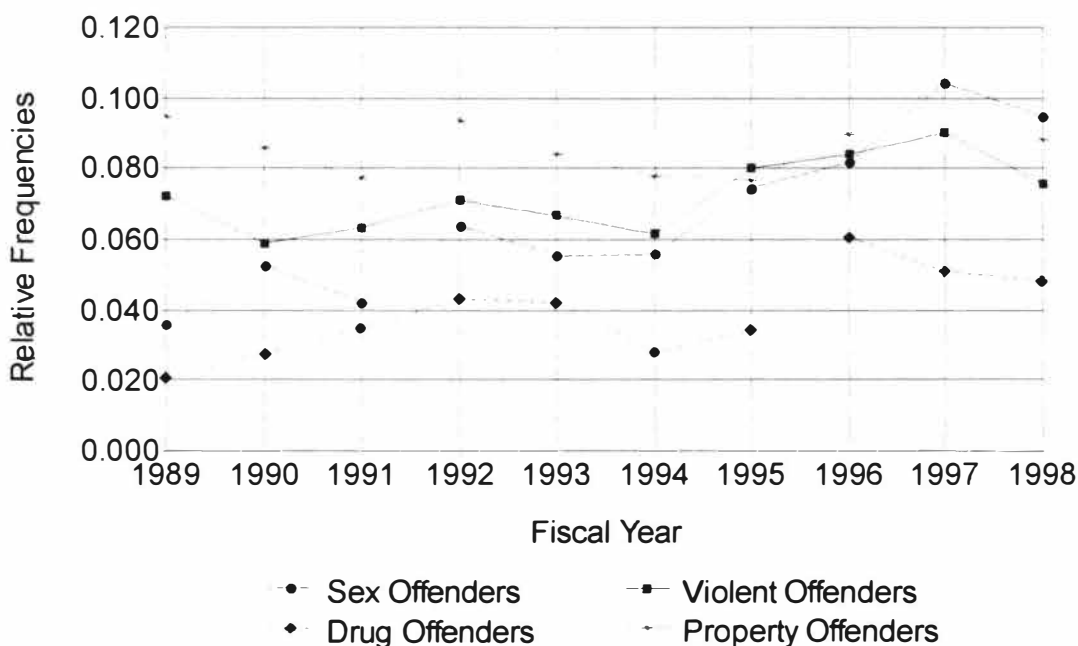


Figure 2. Frequency of Parole Technical Violation Intakes Among Committing Offenses: All IDOC Male Admissions

#### Supporting Special Conditions at Community Level

The application of the special stipulations, however, has been subject to debate within the IDOC, primarily due to the lack of resources to support the demands made under these conditions by the parole board. For example, requiring participation in treatment specifically designed to address sex offender issues and routine polygraph are two special stipulations that have recently increased in application. However, according to two IDOC sources,

these services have not historically been available throughout Indiana, and were scarcely accessible under the conditions as they applied during the observed years. Because these stipulations relied upon resources available at the community level at the time of their parole, those parolees assigned to rural areas, as are many of those counties within the Northeast region, are particularly at a disadvantage in obtaining these services. In counties where expertise in the field was greater, programs were developed independently within the community.

Interviewees reported that not only within the region but also the entire state of Indiana, St. Joseph and Elkhart Counties are two of the more aggressive counties in developing community based programs to address sex offender treatment and management. In addition, neighboring La Porte and Porter counties were also cited as counties that have worked to develop specialized programs. Interviewees familiar with parole services further explained parolees released to that area of the state could be at an advantage to receive services, such as treatment or polygraph, because of their placement in communities with greater expertise and/or concern for sex offender management in the community. Otherwise, they indicated, if the community does not have treatment facilities that specifically address the needs of sex offenders, the parolees may be at risk of not receive the provisions indicated in their special conditions.

As stated earlier, officials reported that parole special conditions are effective in identifying and responding to behaviors that indicate a potential for re-offending in addition to disrupting the daily routine of the offender to reveal deviancies. Conditions are precautionary and intended to allow the offender's placement on parole to be revoked on technical violations prior to their further victimization of community members. Results from interviews also indicated that with the increase in restrictions placed upon the offender, concerns that they may impede the success of the offender have surfaced. However, even through re-incarceration may occur more frequently following the mid-1990's increase in restrictions, officials cite these concerns must be weighed against the risk of parolees re-sex offending.

Following the points addressed above, it is important to examine the frequency of technical violation intakes as compared to other types of admissions for sex offenders. Officials have indicated that parole technical violations have likely increased with the raised scrutiny of offender behaviors and use of special conditions in order to effect change in offender behavior and increase community protection. It could be anticipated that, in identifying trends in sex offender admissions, the frequency of parole technical violation intakes would increase following these policy changes in 1995. To examine the trends in admission statuses within the group of sex offenders, I developed a frequency distribution for sex offender commitments and their

intake status codes admitted from the twenty-two county area between FY1898 and FY 1998.

The intake codes include: New Commitment, New Commitment with Indiana Prior, Parole Violation with Technical, Parole Violation with New Commitment, Probation Violation with Technical, Probation Violation with new Commitment, Court-Ordered Return with New Commitment, En Route to Another Destination, In Facility Awaiting Action, Escapee Returned, Escapee with New Commitment, Interstate Compact-New, Interstate Compact-Returned, Predisposition, and Safekeeper. Relative frequency distributions for each fiscal year and intake type allow for comparison of intakes by status code among these groups. The relative frequency of each intake status was determined and presented in Figure 3. The graph indicates the frequency of sex offenders admitted to IDOC from the region for each intake type. As the percent of New Commitment with no Indiana Prior status remains above sixty percent for each fiscal year, it was omitted to provide a clearer graphic illustration of changes in other intake types. Intake codes included in the graph as "Other" are: Court-Ordered Return with New Commitment, En Route to Another Destination, In Facility Awaiting Action, Escapee Returned, Escapee with New Commitment, Interstate Compact-New, Interstate compact-Returned, Predisposition, and Safekeeper.

Figure 3 illustrates the overall increase in relative frequency of Parole Technical Violation intakes among sex offenders from sample region,

particularly between FY 1994 (7.95%) and FY 1997 (16.28%). The rise in the relative frequency of Parole Technical Violation intakes remained constant through FY 1997, but decreased in FY 1998 (11.0%). The reported increase in special conditions and field contacts identified earlier may account for the overall increase in the frequency of technical violation intakes.

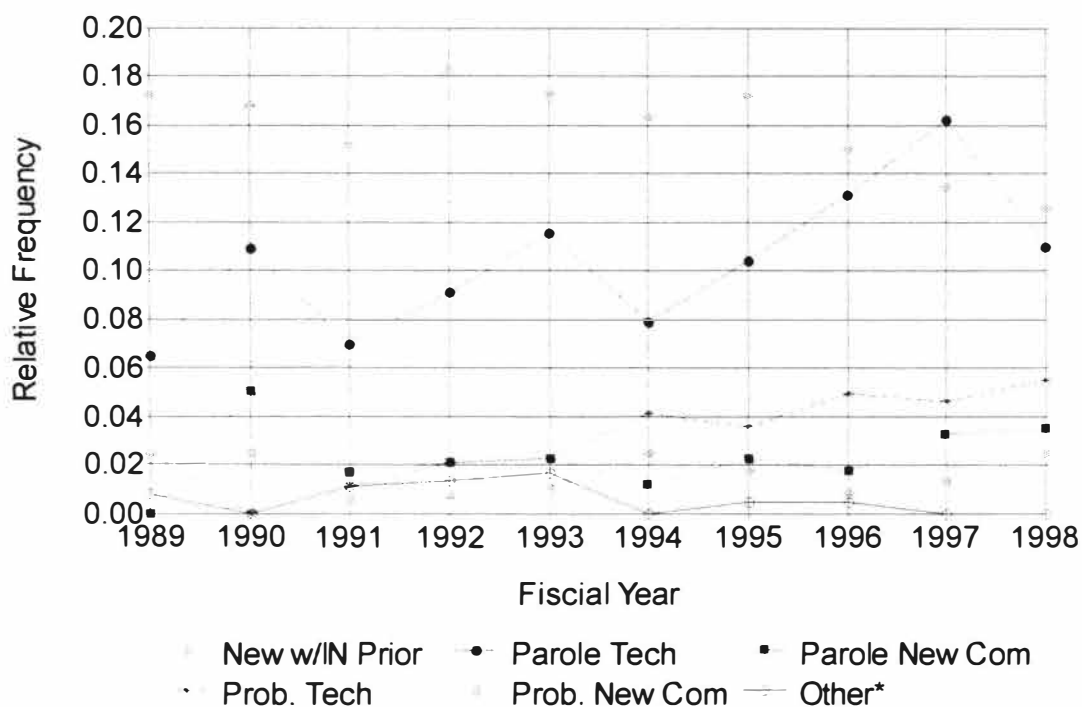


Figure 3. Relative Frequency of Sex Offender Intakes, Excluding New Commitments with No Indiana Prior, from Sample Region.

### Treatment and Social Services

Though the IDOC Planning Division maintains no formal database regarding offender participation in social services or treatment during parole

supervision, a report released by the IDOC Department of Social Services resulting from a 1994 survey of state parole and detention facilities did measure sex offender programming and treatment participation. In summary of the findings, the report stated that 100% of parole districts had a sex offender treatment program. The districts had a total of forty-four offenders participating in some type of community-based treatment. Further explanation revealed that programs do not offer sex offender treatment per se, but rather monitor the progress of offenders through reports from the offender's treatment provider. Responses to the survey revealed no system-wide sex offender program, and districts instead confirmed the summary that management was limited to treatment provided by community mental health centers and the requisition of special conditions by parole prior to release.

Regarding post-incarceration intervention, the report summarized three districts responded "no" or had no response; three identified parole as the intervention; and one practiced monitoring sex offender cases and requisition of special stipulations. Districts commonly reported that the parole agent assigned to the sex offender, along with any special stipulations or court order, determined the offender's referral for treatment. The mental health provider customarily decided the need for further treatment and the duration of participation. None of the districts indicated an established theoretical basis for treatment: four stated the basis was determined by the treatment provider,

two did not answer the question, and one indicated this information was unknown.

Generally, any sex offender counseling services provided to parolees were dependent upon the specialties and interests of the individual community-based therapists and treatment centers, often influenced by the surrounding communities' willingness to address the issue of sex crime. Those parolees supervised in an area with no specialized programming often left with no alternatives, according to IDOC sources. Communities with concerns regarding the management of paroled sex offenders residing there are left with no alternative but to develop local-level programs.

To illustrate, I recount the action of individual communities across Indiana that resulted in their recognized need for post-release interventions designed to address sex offenders specifically. As indicated earlier in this paper, programs have developed in pockets within the state. Perhaps the greatest concentration of community-based programming is in the Elkhart, St. Joseph, LaPorte, and Porter County area.

These four counties are located in the upper Northeast and Northwest regions and line the Michigan-Indiana border and are noted by IDOC officials as possessing some of the more effective programming in the state. The development of the independent programs to address post-incarceration offenders resulted from concern for the lack of pre and post-release sex



offender treatment, and is indicative of an increase in community-level participation in managing sex offenders released from the IDOC.

Officials in Porter County, located in the Northwest Indiana region, began formally examining this issue in 1996. The formation of the 1996 panel of community-level representatives, including Porter County judges, probation officers, prosecuting attorneys and mental health providers, followed a local incident that drew attention to the lack of mandates or provisions regarding post-release treatment and/or monitoring for violent offenders (Bell, 1996). In 1994, the IDOC freed a Frank Gilmer from a psychiatric ward without requiring him to seek mental health treatment (Corcoran, 1997). Gilmer had been convicted of criminal confinement in connection with a rape attempt of a 14-year-old girl in 1984 and served nearly 12 years in Westville Correctional Facility where he received regular counseling. Within nine months of his release, Gilmer committed rape and a double murder in Porter County, and pled guilty to charges. These events fueled the community's critical assessment of the IDOC's implementation of conditions requiring treatment following release.

The community panel sought consultation from St. Joseph and Elkhart Counties officials who had already established specialized community-based programs to address post-incarceration treatment for sex offenders. For the development of the Porter County program, the Porter County Superior Court Judge sought the consultation of Thomas Balthazor, a specialist who had

provided convicted sex offenders treatment in St. Joseph County for twelve years, in addition to Elkhart and LaPorte Counties. Porter County outlined a program of their own, with the goal of preventing convicted sex offenders from relapsing into previous behaviors upon their release from prison (Bell, 1996).

However, Porter County, like most other counties, recognized that their program would need to be self-sufficient. A county without a large enough base of convicted perpetrators whose payments were able to sustain the program costs, Porter County was unable to begin providing sex offender treatment at that time. Instead, they arranged for six convicted sex offenders to participate in intense sex offender services in adjacent LaPorte County. Porter County judges began requiring treatment as part of their sentencing, and those already incarcerated were subject to sentence modification to include mandatory treatment upon release. Porter County officials also recognized the increasingly common use of polygraph technology across the country to monitor sex offender behavior, and arranged for this specialized training for two polygraphers serving their area and implemented its routine application as a program practice. In 1997, the year following its initial discussion and proposal by community representatives, the program began serving seven convicted sex offenders in Porter County (Bell, 1996).

## Trends in Sex Offender Social Services Programming in Facility

Trends in facility programming for sex offenders were also identified. Few incarcerated within an IDOC facility for sex offenses received sex offender counseling from the late 1980's and early 1990's. However, the initiation of a comprehensive program was first recommended in "A Long-Range Plan for Indiana's Criminal Justice System", prepared by the Indiana Corrections Advisory Committee in 1990. Of the recommendations suggested, mandatory supervised re-entry, participation in work release during re-entry, and specialized treatment in prisons to include residential therapeutic communities. In 1991, the Task Force on Sex Offender Treatment Program recommended a comprehensive treatment program for sex offenders, estimating that the IDOC sex offender population was responsible for victimizing an estimated 12,000 to 15,000 women and children (Steele & Schwartz, 1994).

According to interviews with IDOC officials and media sources, the primary facility providing treatment programs during this period was the Westville Correctional Center (WCC). Though well intended, one agency representative disclosed that the programs were not effective, poorly structured, and not systemically applied. According to the interviewee, the Classification Division did not endorse or require these programs by policy at the time, as the programs were developed and operated by counselors untrained for providing sex offender treatment. The participants were

independently counseled, a practice now assumed non-productive, and counseling focused on treatment rather than personal risk management.

Further impacting an offender's receiving treatment was their calculated risk to the community. In the early 1990's, WCC was a less restrictive facility. Classification of offenders required that custody risk be considered the first priority; therefore, sex offenders considered a threat to public safety due to a custody risk classification, were not transferred to WCC. Instead, these prisoners were sent to a higher security detention center. Therefore, those sex offenders considered a greater threat to society were those least likely to receive treatment.

The Department of Planning, charged with the responsibility of collecting, maintaining and presenting IDOC information, does not collect data regarding psychological and social service program participation. However, I was able to obtain reports from separate studies on sex offender programming: (1) an internal 1994 survey of IDOC sex offender programming; (2) the 1994 sex offender planning report by Dr. Nancy Steele and Dr. Barbara Schwartz, and (3) an internal 1998 report of IDOC programs including sex offender programming. In addition, interviews and media sources revealed trends in development of sex offender development and facility construction.

### IDOC Sex Offender Programming Survey and Report

In April 1994, the IDOC Director of Social Services summarized results from a March 1994 sex offender programming survey of IDOC facilities. Twenty-three adult facilities and eight parole districts, in addition to eight juvenile facilities, responded to the survey. Forty-eight percent, or eleven facilities provided a sex offender treatment program. According to the survey, the remaining twelve facilities did not have sex offenders in their population due to classification criteria.

Indiana Reformatory (IR) reported 91 offenders, or 89 child molesters and rapists and two deviant conduct offenders, were participating in therapy at the time of the survey. Roughly half participated in group therapy, while the others received individual treatment. From the results of the survey, Indiana Reformatory presented one of the more organized approaches to providing treatment for sex offenders among the adult facilities. Inmate participation was not only dependent upon self or staff referrals, but could also result from initial screening or bi-annual review. Treatment was contingent upon the offender's initial admission of the offense, and the program duration is 208 weeks, or four years. The program's theoretical approach is rooted in cognitive and behavioral learning therapy, and outcomes were measured through pre-designed instruments. A behavioral clinician and a psychiatric social worker supervised by a licensed psychologist provided therapy. In addition, a psychiatric consultant was established on an "as needed" basis. Unlike any of

the other IDOC adult facilities providing sex offender programming, IR reported establishing post-incarceration intervention routinely and ensured a formal support network be in place before an offender's release.

Westville Correctional Center accounted for 58 sex offenders, primarily child molesters and rapists, participating in group and individual, cognitive behavioral programming provided by a psychologist and behavioral clinician. Participation was upon the offender's request or staff referral and occurred at any point of intervention. The duration of participation was considered "indefinite", though there was no post-incarceration intervention routinely applied and no means to measure outcomes (IDOC Sex Offender Programming Survey and Report, 1994).

The report identified other facilities providing sex offender treatment programming, according to their report, include: Correctional Industrial Complex (CIC) serving twelve offenders; Indiana Women's Prison (IWP) treating between three and six women per year; Wabash Valley Correctional Facility (WVCF) serving four; Indiana Youth Center (IYC) treating thirty adults; Indiana State Farm (ISF) assisting between twenty and twenty-four sex offenders; Branchville Training Center (BTC) treating fifteen; and the Indiana State Prison (ISP) with twenty-two participants at the time of the survey. Of these other facilities, only two indicated having a tool to measure offender outcomes, and another reported using the subjective judgment from staff regarding sincerity of commitment as a measure of offender progress.

As with outcome measures, point of intervention greatly varied within these programs. While the IWP's reported providing services within the first year of incarceration, BTC indicated waiting until the end of sentence, or under two years to serve remaining, to begin providing treatment. The theoretical basis for the treatment included a variety of approaches, including but not limited to: behavioral, cognitive restructuring, reality therapy, problem solving, interpersonal sharing, and education. Duration of the programs varied, from undetermined to several years, and post-incarceration prevention went virtually unconsidered. Of those facilities listed above, only two addressed intervention following prison release; CIC determined the responsibility of arranging post-incarceration treatment fell upon county probation and/or state parole, while BTC anticipated the offender would arrange for follow-up intervention independently.

#### Steele and Schwartz Sex Offender Planning Report

The planning report submitted by Steele and Schwartz in July 1994 also provided an assessment of current programming for sex offenders. In assessing IDOC's current practices and potential for improvement in providing treatment for adult sex offenders, Steele and Schwartz cited strengths included an enthusiastic and highly trained staff, working with sex offenders in a variety of ways, who have developed some comprehensive psycho-ed

models. They were also able to identify some programs that produced useful progress and included outcome measures.

Steele and Schwartz noted that while there were strengths in the Adult programs, problems were apparent. Primarily, they pointed out that there was no consistent model being applied department wide. "Many sex offenders [were] being treated with individual therapy" the researchers noted, and "in rare cases this may be appropriate clinically," (Steele & Schwartz, 1994, p. 4). They found that some institutions reported as much as 50 hours of staff time per week being spent on individual therapy. Affirming the minimal use of individual therapy for sex offender treatment across the country, Steele and Schwartz add that "only two percent of sex offender programs in the country voluntarily use individual therapy exclusively as it is being done in some institutions here," (1994, p. 4). Other documents outlining programs from different states across the country confirmed that group therapy is the preferred method of sex offense-specific treatment. Colorado's 1996 standards and guidelines developed by the Colorado Sex Offender Treatment Board specify that "the sole use of individual therapy is not recommended with sex offenders, and shall be avoided except when geographical – specifically rural – or disability limitations dictate its use," (Colorado Department of Public Safety, 1996, p. 25). The report noted that some IDOC program providers revealed some lack in confidence doing group work, possibly a reason for the overall lacking of sex offender groups. Steele and Schwartz also found that



offenders were participating in long-term treatment programs at various stages of incarceration rather than at the end of their sentence, when they would be most beneficial.

Problems also included a "rigid" classification system that has "not adopted to meet programming needs of offenders" (Steele & Schwartz, 1994, p. 4). They pointed out that program participants are frequently transferred out of the facility where they are receiving treatment mid-way through the program, and the next institution may fail to follow-through. In addition, the authors emphasized that the practice of eliminating sex offenders' participation in minimum security or Work Release facilities is a significant problem and not in the best interest of public safety. Their criticism, in agreement with previous reports, provides, "Currently, offenders convicted of sex offenses are excluded from participation in supervised re-entry programs...[t]his practice must end...criminal justice professionals throughout the county confirm the benefits of gradual re-integration..." (Steele & Schwartz, 1994, p. 5).

The Steele and Schwartz report pointed out that the "current department resources are not large enough to accommodate the number of sex offenders in the system," (Steele & Schwartz, 1994, p. 5). Reinforcing this statement, in a 1995 news article, Thomas D. Richards, IDOC Director of Social Services, estimated that only "100 are in intensive treatment at any

given moment. That's out of 3,000 guilty of...sex-related crimes," (Neal, 1995).

The Steele and Schwartz report provided recommendations including the continued development and implementation of standard risk assessments, specific, measurable offender goals that should be reviewed for progress biannually, and concentrated treatment efforts on higher risk toward the end of their sentences. The authors encouraged the establishment of a mandatory instructional Victim Awareness Training Module for all sex offenders assigned to the treatment program. While they suggested that priority go to high-risk offenders, lower risk offender should be offered the option of participating. In addition, a voluntary sex offender group should be available at various facilities while the offender awaits transfer to an established therapeutic community.

Among the recommendations made regarding release planning, the consultants suggest the development of individualized, comprehensive Relapse Prevention Plans, and notification to the community corrections office in the area where the offender will be released. Following release, community based treatment should be assigned to offenders from a pre-approved list, a system used by corrections systems in other states. The Steele and Schwartz report emphasized the importance of the role of the parole or probation officer in the reintegration process. This, however, requires an open flow of information between the IDOC and parole and/or probation. The report noted

that, in 1994, an administrative code blocked the flow of information between probation and IDOC. According to the report, the code, initially intended to protect the privacy of inmates, compromised public safety and need be changed.

The authors recommended the entire system participate in training regarding the philosophy of the Sex Offender Treatment Program established. Participating departments should include administration, custody, classification, and treatment. Finally, the 1994 Steele and Schwartz report indicated the importance of measuring outcomes. The authors stated the IDOC will need to make provisions to measure re-arrest rate and/or reconviction rates of sex offenders released from the Indiana prisons for three years following release. "This should be started as soon as possible...[r]ecidivism is the measure which legislatures and the public wish to see measured and this should be accommodated," (Steele & Schwartz, 1994, p. 6).

#### IDOC Programs Report

A less comprehensive report identifying the number and location of IDOC programs and number program participants concluded that, as of July 1, 1998, three adult facilities, including the Correctional Industrial Complex, Branchville Training Center, and Indiana State Prison, were serving sex

offenders in a sex offender program. According to the 1998 report generated by the IDOC, the three facilities' programs were serving a total of 46 inmates.

### Facility Development

State prison officials did seek to redesign their mental health care system while addressing prison overcrowding, particularly from 1995 through 1998. Significant problems with the medical and pharmaceutical services at the Westville Correctional Center in 1994 were followed by a 1995 proposal to build a new facility to address overcrowding and medical needs. Then Governor Evan Bayh proposed an \$81 million, 1000-bed prison be built to accommodate the growing prison population, which neared 14,000 in 1995 (South Bend Tribune, April 2). Providing additional space to house inmates with medical needs was touted as a funding concern for the project. Within three years, during FY 1998, the IDOC requested \$12 million to fund a 128-bed psychiatric hospital at the Westville correctional site. Soon following this request, however, the Indiana Department of Correction proposed the construction of a \$110 million facility to provide services for inmates with special treatment needs, including sex offenders (Dillman, 1999).

Among the results from the proposals submitted, the Miami Correctional Facility, opening in 1999, provides beds for about 1,400 inmates, with an expansion potential to house another 1,500 convicts (Widholm, 1997).

## Trends in Research and Statistics on Sex Offender Populations

Reviewing the statutes effective in 1989, the Indiana Code Annotated mandates that the department establish:

A program of research and statistics, alone or in cooperation with others, for the purpose of assisting in the identification and achievement of realistic short-term and long-term departmental goals, the making of administrative decisions, and the evaluation of the facilities and programs of the entire state correctional system (Title 11, Article 8, 1989).

The policy requires the compilation of information relating to recidivism of offenders and an inventory of offender participation in facilities and programs is to be compiled. Though the policy has been amended since its enactment in 1989, the indication for the collection of this data has remained unchanged.

As stated earlier in this paper, following a 1994 assessment of IDOC sex offender programming, one of the primary recommendations in the report was the measurement of outcomes (Steele & Schwartz, 1994). The primary source for the compilation and dissemination of offender information is the Planning Division. In general, the Planning Division is responsible for research and statistics, policy development, grant coordination, and population forecasting. The Planning Division maintains various data concerning offender demographics, current offense, and sentence information. This division also keeps historical data on both offender admissions and releases. Not only does the Planning Division respond to information requests

by external researchers and individuals, but also from State legislatures, internal departments, and criminal justice agencies.

The Planning Division does not maintain information regarding participation in IDOC programs. Instead, the individual departments compile information on program participation. For example, the Department of Social Services collects information regarding sex offender program participation and generates these internal reports. In general, documentation and interviews with key personnel conclude that there was no standardized or consistent means of tracking, managing, or monitoring Indiana's sex offenders in or prior to 1999. There was no practice of measuring the effectiveness of treatment relative to recidivism or sex offender recidivism in general. Measuring how effective treatment has been relative to recidivism or behaviors would not produce reliable information when treatment has not been standardized. Indications of behavior change would not necessarily indicate any relationship between the observed changes and the treatment provided.

In 1999, when identifying available data for this research project, the initial interest included sex offender recidivism data. The analyst with whom I was corresponding informed me that the "IDOC does not maintain electronic data showing the prior crimes one has committed, so [the analyst] could not [convey] for example whether a sex offender who has been recommitted has committed a sex offense in the past, as opposed to some other type of crime," (Greenawalt, 1999). The analyst further stated that "[IDOC] *data files* do not

show prior criminal history information, so [she] could not tell what crimes one had committed in the past” with the information available in the IDOC database (1999, italics added). Clarification with the research analyst confirmed that as of July 1999, there was no standardized or consistent method of tracking or monitoring sex offenders employed by IDOC.

The IDOC does maintain paper files on offenders that most often include pre-sentence reports and recommendations that detail their criminal histories. Pre-sentence reports are confidential, and usually prepared by a county probation officer prior to the offender’s sentencing, and are intended to include an exhaustive account of their criminal activity. This information heavily relies upon federal and state databases, and its accuracy upon the entry of the original arrest and conviction data, the criminal history inquiry submitted and its entry, and the follow-up investigation and reporting by the officer in response to information gained from these sources.

## CHAPTER VI

### DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

#### Discussion of Findings

##### Patterns in Addressing The Sex Offender in the Community

Many early 1990 IDOC policy modifications responded to Matheney's murder of his ex-wife in 1989 and created program restrictions for violent offenders. However, the 1995 restrictions specifying sex offenders closely followed the sexual violation and murder of Zachary Snider and the subsequent enactment of Zachary's Law in 1994. This law, according to one IDOC official, made the IDOC more accountable for movement of sex offenders. Three IDOC sources also indicated that, as a result of this legislation, sex offenders previously able to access community treatment programs while under IDOC supervision were now restricted to prison facilities, where treatment was not standardized system-wide, offering little and often ineffective treatment, or none at all. In essence, the policy significantly reduced the latitude of local judges in sex offense cases, removing the possibility for sentencing to integrative programs, with minimal exception.



These changes indicated a transformation in the IDOC agency towards sex offender management between FY 1989 and FY 1998. Community corrections policies that allow for individual counties to establish their own rules and restrictions were subject to IDOC's omission of sex offender from eligibility. The exclusion of sex offenders was responding to the recently expressed scrutiny regarding the release or placement of IDOC sex and violent offenders in the community. As indicated earlier, interviews with IDOC officials statements by criminal justice officials confirmed that, following the events surrounding Bianco's death (referred to by several officials as "the Matheney incident"), trends in sex offender policy and practice swiftly moved to a further restrictive prison management. One official interviewed recalled that the incident led to the call for violent offenders, eventually to include convicted sex offenders, to remain "locked-up".

This study found no deviation from this early 1990's trend. The official also related that the passage of Zachary's Law influenced the IDOC to be increasingly responsible for the movement of sex offenders while under IDOC supervision and led to the adoption of a containment approach. Interviews conveyed that the focus was on tightening restrictions and reducing further problems in the community. Despite the recommendations made following two comprehensive studies to include sex offenders in work-release supervised re-entry from IDOC, this study found that their policy and practice further excludes sex offenders. In addition, the policies significantly

diminished the latitude for communities with local community programs, funded by the IDOC community corrections grant, to allow sex offender participation.

Clearly, IDOC policy and practice, particularly between 1995 and 1998, did not support supervised re-entry of sex offenders in programs other than parole. While parole provides supervision in the community, community correction programs are highly structured to provide more frequent contact between the supervisor and the offender. According to Steele and Schwartz (1994), community correction programming, specifically work release, is in the best interest of public safety as it allows for a more gradual integration of sex offenders into society. Sex offenders are instead disallowed, placing a greater burden upon the community to monitor the newly discharged and minimally supervised sex offender's behavior.

This study identifies significant trends in sex offender policy and practices in parole services. Specifically, I noted a reported (1) increase in IDOC contact with sex offender parolees in the field in the early 1990's and (2) application of special conditions since approximately 1995. I identified an increase in the magnitude and types of restrictions and stipulations specifically for sex offenders around 1995, and an increase in the relative frequency of sex offender admission for parole technical violations since 1994, both following the enactment of Zachary's Law.

The combined interviews, policy and data analyses provided support for claims that the emphasis has shifted from restricting the offender through incarceration to restricting the *paroled* offender in the community. Parole policy changes assist agents in identifying deviant behavior prior to the re-commission of a sex offense, and allow for greater opportunity of the agent to identify and respond to the behavior. "Reintegration is "especially problematic for child molesters, [and] [d]etailed aftercare plans orchestrated by well-trained and supervised parole agents... are essential to reducing re-offense risk," (Prentky, et al., 1997). The greater number and application of parole conditions, along with the self-reported rise in field contact frequency, indicates IDOC's increased monitoring of paroled offenders.

Some policies may be interpreted as intended to positively change the offender's behavior in the community. Many such modifications, however, were not supported by availability of resources. Sex offender counseling services and/or polygraph monitoring provided to parolees were dependent upon the specialties and interests of the individual community-based therapists, treatment centers and service providers. Provisions for services were often influenced by the surrounding communities' willingness to address the issue of sex crime. According to IDOC sources, parolees supervised in an area with no specialized programming often are left with no alternatives. Communities with concerns regarding the management of paroled sex

offenders residing there were left with no alternatives but to develop local-level programs.

The IDOC has increased their community outreach practices, according to the interview results. Examples cited include providing information to community corrections grant recipients, sponsoring victim conferences, working more closely with county probation departments, and participating in "think-tanks" addressing at-risk offender population in the Indianapolis community.

#### Patterns in Addressing Sex Offenders In Facility

This study identifies conflicts in policy and practice in-facility, and found little change in trends to positively effect offender behavior before and following the implementation of Zachary's Law in 1994, as outlined in the studies by Steele and Schwartz and the Indiana Corrections Advisory Committee. Conflict between classification policy and social service treatment programming were discussed. I identified recommendations to implement a comprehensive sex offender program made as early as 1991. These suggestions reinforced in a 1994 report submitted by national experts on sex offender management. However, programs in place were critically assessed in 1994, and trends indicate little if any change through FY 1998. Also important for effective sex offender behavior is the maintenance of statistical data, specifically regarding recidivism. Studies on sex offender management

frequently cite the importance of recidivism data in determining effective sex offender programming. The Department of Planning indicated no available means of determining re-sex offending for previously committed sex offenders from FY 1989 through FY 1998.

The IDOC did not have a comprehensive policy in place supporting sex offender specific services or management before or following Zachary's Law, other than through examination of individual case files. While there was some practice with intentions to effect positive change in offender behavior, these efforts existed independently, often without established, measurable goals and programming was more indicative of individual therapist interest and abilities over institutional practice. The IDOC did seek and attain funds to construct a facility for special needs prisoners, including sex offenders, to better address positive change in sex offender behavior.

### Conclusion

In conclusion, this document is intended to provide an analysis of an agency's policy and practice to examine if they reflect those stated objectives of a substantial, costly legislation. This research examines if sex offender policy and practice in the criminal justice system reflect the selected goals of Zachary's Law (1994-1997). I investigate if the policies and practices of the Indiana Department of Correction reflect intentions to: (1) positively effect community protection; (2) positively change offenders' behavior in the

community; (3) effect a combination of both; or (4) produce neither of these conditions. A combination of policy and statistical analysis along with interviews with agency officials and compilation of agency documents provides a triangulated approach to addressing this inquiry.

This study found that while some policies and practices reflected the objectives of protecting the community and positively effecting offender behavior, they were not consistently found. In addition, while some practices in the agency, such as those found in social services, were intended to produce positive change in offender behavior, there was no system-wide policy standardizing those practices. This study also indicated that several policies and practices were found to have a potentially negative effect upon community protection. The IDOC did seek consultation in sex offender management, and provides that a sex offender treatment program has been idealized since approximately 1994. However, no system-wide treatment programming policies were developed during the span of this study.

The research did identify some policies and practices that were implemented around the enactment of Zachary's Law that were consistent with its objectives. Trends in parole were found to intend a positive effect on sex offender behavior in the community. Other policies and practices indicated a decrease in community protection, as illustrated in the exclusion of sex offender participation in certain community corrections programs.

## Recommendations for Further Research

This project needs to be considered a preliminary work to address the problem of system-wide goal identification and implementation for sex offender management. While substantial and costly policies have been, and continue to be developed addressing the criminal justice system's response to sex offenders, little has been done to assess the effect of these policies on offender recidivism, community security, or criminal justice systems at both state and local levels. Policies and practices of additional agencies within the criminal justice system need be examined to better determine the reflection of Zachary's Law's goals within Indiana's agencies. Overall, the body of research on sex offender management needs to be expanded.

Though this study examines trends from FY 1989 through FY 1998, through this research I became aware that the IDOC established two programs during FY 1999 that should be addressed in recommendations for future research. Therefore, I briefly introduce each program, and provide additional information in the appendix of this document.

The Community Transition Program (CTP), effective FY 2000 (July 1, 1999), provides the assignment by the court of an offender from the Department of Correction into a community correction program; or in a county or combination of counties that do not have a community corrections program, a program of supervision by the court's probation department (Indiana Code Annotated, Title 11, Article 8, 1999). Most felons qualify, excluding those with

indeterminate life, life without parole, or death sentence, or convictions of Murder, Attempted Murder, Conspiracy to Commit Murder or Aiding in Murder. Offenders can also be denied participation if they represent a substantial threat to the safety of others or meet other certain conditions. Offenders whose most serious offense was a Class A or B felony require approval from the sentencing court prior to their assignment to community transition. Whereas, offenders convicted of a Class C or D felony as the most serious conviction during commitment period are transferred to the sheriff of the county where their case originated unless an order has been received denying participation in CTP or a warrant has been received. In order for a county not to receive the Class C or D felon being transferred to their jurisdiction, the sentencing court must order the IDOC to retain the offender following its determination that the CTP: (1) places the offender in danger, or (2) threatens the safety of others or other good cause.

For offenders in the program, community supervision may include living at home, and some are placed on house arrest or electronic monitoring. Since many local jails are at or above capacity, offenders are not often held in local jails. The statute establishes a minimum of seven dollars per day, for each offender, to be provided to the counties for the operation of this program. Electronic monitoring and house arrest fees vary, but can exceed \$60 per week. Their supervision may vary, and may include state parole or county probation supervision. Probation supervision requires assigned officers to



meet the program participants on a frequent and regular basis, requiring county-program time and resources. The IDOC has prepared a CTP flowchart according to each level of offense, and these are found in Appendix C of this document.

The interviews with IDOC officials allowed for some discussion of the Community Transition Program. Though its enactment does not fall within the parameters of this project, it is important to acknowledge this program in discussing recommendations for future research. As this law became effective July 1999, there is not enough information available at this time to appropriately determine the rate of sex offender participation or assess the impact of this program on sex offender reintegration. Some IDOC officials claim that the IDOC provides ample notification to county prosecutors of a sex offender's referral to CTP for their county, thereby allowing county prosecutors and courts ample opportunity to respond to the referral and determine their acceptance or denial of the offender. Concern for sex offender participation in community transition programming, however, was not dismissed. One interviewee indicated that, while sex offenders are not automatically excluded from qualification, they may not be good candidates for the program due to their offense history.

The second program I will briefly discuss is the Sex Offender Management and Monitoring Program (S.O.M.M.), effective November 1, 1999. Like the CTP, this program has recently been implemented and has not

been in effect long enough to assess the program or measure outcomes. However, the goals of S.O.M.M. are clearly established and can be discussed here.

The S.O.M.M. program is intended to reflect sex offender programming like that already in place in Colorado and Kentucky. Their program descriptions and guidelines were made known and available to me by the IDOC. The standards and guidelines outlined in each state in 1996 are based upon the best practices known today for the treatment and management of sex offenders. The treatment goals incorporate understanding that while sex offenders are among the most difficult population to treat and program success varies individually and by offense, there has been some success in programming directed at fostering internal and external control measures to prevent unwanted behavior in the offender (Peterson, 1996). Each program provides primarily group treatment that includes several phases or modules. Included in these programs are psycho-educational modules and treatment phases, placing significant emphasis on ownership of offenses and personalization and restitution of their victims. Guidelines for community supervision following the conviction and referral of a sex offender to probation, parole, or community corrections were also provided by the Colorado Board (1996, p. 43). Conditions for participation were clearly established, and their stipulations included a network of communication and supervision in the restricting and monitoring of sex offender behavior. In addition, standards

were established for assessing risk and implementing more contemporary means of assessment, including the use of polygraph and plethysmographic testing.

Guiding principles to the Colorado program include an assumption that sexual offending is a un-curable behavioral disorder, sex offenders are dangerous, community safety is paramount, and that ongoing evaluation of sex offenders is necessary to determine treatment and level of risk (Colorado Sex Offender Treatment Board, 1996, p.1). The principles also include the accountability of sex offenders on community supervision and their waiving of confidentiality for the purpose of their management. Also assumed is the necessity for sex offender management and treatment options statewide, and a coordinated response including all criminal justice and social service systems. Many of these principles, or their similar construction, can be found in those outlined in Indiana's S.O.M.M. program.

The goal of the S.O.M.M. program is to reduce convicted sex offenders' recidivism, and to provide sex offender specific programs both in-facility and during parole supervision statewide. The S.O.M.M. program address many of the criticisms and concerns identified in the Steele & Schwartz assessment, and aims to produce a positive change in offender behavior and parole supervision in the community. The program philosophy resolves that past treatment practices and post-release supervision provided in the past are ineffective independently in reducing sex re-offending. Instead,

the program establishes a containment strategy, which enforces a system of personal and external controls and restrictions in the community setting.

In addition, the New Castle Correctional Facility, on the grounds of the former mental hospital in New Castle, is approved for construction. According to news sources and confirmed by interviews with officials, the New Castle facility provides 1,440 beds in the general population for treatment of sex offenders and drug addicted inmates, while 260 beds provides services to the medically frail, those in hospice, and inmates requiring inpatient psychiatric care. The projected completion date for the facility is June 2001. This correctional site is significant in the implementation of the Department of Correction's intensive sex offender treatment program that has been in the development phase for three years prior to the facility's construction.

While the implementation of this program does not fall within the period of study for this research, it is necessary to acknowledge the significant program changes implied in this policy. The S.O.M.M. program is a multi-phase initiative, impacting several departments within the IDOC and incorporates community level participation. To allow the reader opportunity to further review the program, I have included the S.O.M.M. Program Overview prepared by the IDOC in Appendix D of this paper.

The overall goal of the S.O.M.M. program is to "provide a comprehensive monitoring system of *adult, male*, sex offenders to reduce sex offense crimes in the state of Indiana in a cost-effective manner," (Indiana

Department of Correction, 1999, p. 1, emphasis added). This program incorporates many of the guiding principles including the incurable status of sex offenders and their dangerousness and ongoing need of risk assessment, the paramount issue of community safety, and the necessity of a coordinated, community response to sex offender management. It builds upon the ideology that “while there is no “cure” for sex offenders, external controls [can be enforced by a coordinated systems effort to monitor and direct his actions and reduce the likelihood of re-offending... and provide opportunity for the offender to...develop internal controls to manage his own actions. In review of the program structure,” (Indiana Department of Correction, 1999, p. 3).

Three distinguished phases designate the offender’s placement and/or movement in the program. In-facility phases incorporate a mixture of treatment strategies, data collection, discharge planning and polygraph assessments. Post release supervision mandates the availability of information gathered for the discharge summary to the post-release office and the assignment of the offender to a specially trained officer. In addition, post – release management plan “an overall management plan incorporating offense specific treatment, specialized supervision, and polygraph assessment will be developed utilizing information and resources available,” (Indiana Department of Correction, 1999, p. 10). Those providing treatment to offenders under this supervision are required to meet certain licensing criteria, and supervising officers are to refer offenders to treatment programs that emphasize sex

offender group therapy. Education, for the family of sex offenders and the staff that work with them, was also mentioned in the plan.

The post-release plan of S.O.M.M. program significantly emphasizes the use of polygraph methods. According to the IDOC, "it is anticipated that recidivism will be reduced during the time period sex offenders are supervised in the community with more effective parole stipulations utilizing polygraph," (Indiana Department of Correction, 1999, p. 12). Recognizing polygraph methods and results must be understood for them to be used effectively, and officers and providers would require training. Following the implementation of state-wide a polygraph procedure, an objective of this policy is to provide training on using and interpreting polygraph tools and assessments.

The directive, issued by then IDOC Commissioner Edward L. Cohn on January 4, 2000, provided that the IDOC had been working with Prison Health Services (PHS), who in turn contracted Liberty Health Behavioral Corporation (Liberty) for the coordination of staffing for the program. The directive made staff aware of Liberty's and PHS's role in the implementation of the S.O.M.M. program. In addition, Cohn indicated the sites selected for providing the program, including the following facilities: "Reception-Diagnostic Center, Correctional Industrial Facility, Miami Correctional Facility, Pendleton Correctional Facility, Putnamville Correctional Facility, and Westville Correctional Facility," (2000, p. 1). Currently, IDOC adult male sex offenders are participating in the S.O.M.M. program, which was implemented during

fiscal year 2000. Introducing in its implementation, an executive directive familiarized staff with some of the program developments. The data collection practices outlined in the programming standards indicate that researchers will be able to assess a program's effectiveness, provide a method for reporting expenditures, and supply data for obtaining funding (Indiana Department of Correction, 1999). This researcher recommends a future assessment of the objectives and outcomes on sex offender behavior in the community and containment practices designed for community protection.

## Appendix A

### General Profile of Twenty-two Counties in Northeast Indiana Region



## Appendix A

### General Profile of Twenty-two Counties in Northeast Indiana Region

County	Population	% Births to Moms Under 20	% HS Graduates	% College Graduates	% Unemployed 1994	# Private Nonfarm in 1993	# Farms in 1992
Adams	32311	7.10	74.40	10.70	3.90	707	1102
Allen	308503	13.20	81.20	19.00	4.50	8391	1463
Blackford	14162	20.10	73.00	8.90	6.90	288	273
Cass	38584	18.30	75.90	9.00	8.20	872	804
De Kalb	37955	12.50	77.50	9.90	4.80	830	671
Elkhart	166994	12.90	72.80	14.20	3.90	4778	1447
Fulton	19922	13.40	75.30	9.40	5.10	478	690
Grant	73720	18.60	71.80	11.20	7.30	1569	630
Howard	83763	17.50	78.50	14.30	5.90	1888	566
Huntington	36807	12.60	78.60	11.80	5.50	837	704
Jay	21901	12.80	68.90	8.20	5.80	430	852

Appendix A-Continued

Kosciusko	69210	13.10	77.50	14.40	3.90	1773	1123
LaGrange	31653	6.10	56.70	7.30	4.20	608	1391
Marshall	44879	10.50	74.00	12.30	3.90	1071	956
Miami	32611	17.20	76.40	9.70	5.90	658	771
Noble	40884	15.00	72.10	8.00	4.10	870	993
St. Joseph	258083	14.70	76.10	19.20	4.50	6534	768
Steuben	30060	15.10	79.00	12.50	4.20	868	500
Tipton	16463	12.40	77.00	9.80	4.70	322	449
Wabash	34896	16.30	74.40	11.70	4.90	797	810
Wells	26506	9.90	79.00	12.10	4.00	592	722
Whitley	29426	11.00	78.90	8.80	3.90	612	759
Sum	1449293	300.3	1649	252.4	110	35773	18444
Mean	65876.955	13.650	74.955	11.473	5.000	1626.045	838.364

Source: U.S. Bureau of the Census, USA Counties 1996 CD-ROM

## Appendix B

### Criteria Used to Define Violent, Sex and Drug Offenses

### CRITERIA USED TO DEFINE "VIOLENCE"

The Department of Correction is often asked to provide information on offenders that are violent. On the surface, this appears to be a very simple request. As the department delves into the definitions of violent, the situation becomes more difficult. One person's definition of violence does not always agree with another's definitions. Generally, most would agree that murder and battery are violent. Everyone does not agree, however, that all of the following are violent: *arson, neglect of a dependent child, driving while intoxicated, and conspiracy to commit a murder*. Due to various definitions of violence used, different criteria were used each time a person asked for such information.

Currently, the State of Indiana has provided a statutory definition of violence (attached IC 5-2-6.1-8 Violent Crime). This definition is not specific, however, in identifying all offenses that meet the various definitions of violence. For instance, it eliminates involuntary manslaughter involving use of a motor vehicle if the driver was not intoxicated, although it could certainly be argued that killing a person, intentionally or not, is itself "violent".

In order to consistently answer the inquiry on violent offenses, the following definition will be applied when identifying violent offenses for the purpose of providing statistical information:

"Violent offenses are those which cause bodily injury, psychological harm, or personal deprivation."

The adoption of the above definition expands current legislation, which identifies "violent" as causing death or serious bodily injury. The above definition includes offenses involving the use of a deadly weapon (DW), use of deadly force, and threat of force as producing psychological harm. It also includes the offenses of child molestation, child solicitation, child seduction, incest, and kidnapping, which may not cause serious bodily injury but have some psychological harm as justification for sentencing. Class C involuntary manslaughter, specifically excluded in statute, is also included in the violent offense list for the Department.

### Indiana Department of Correction List of "Violent Offenses"

<u>Offense</u>	<u>Reason</u>
35-42-1-1                      Murder	
<u>Level A</u>	
35-42-1-3                      Voluntary Manslaughter	* Causes death/deadly weapon
35-42-1-7                      Transfer of Contaminated Bodily Fluid	* Transmits HIV as result
35-42-2-1                      Battery	* Bodily injury
35-42-2-6                      Battery by bodily waste	* Transmits HIV as a result
35-42-3-2                      Kidnapping	+ Threat of harm
35-42-4-1                      Rape	* Armed/deadly force
35-42-4-2                      Criminal Deviant Conduct	* Threat/use of deadly force or with serious bodily injury
35-42-4-3                      Child Molestation	+ Deadly force
35-42-4-5                      Vicarious Sexual Gratification	* Deadly weapon/serious injury
35-42-4-9                      Sexual Misconduct with a Minor	* Threat/use of deadly force or with serious bodily injury
35-42-5-1                      Robbery	* Serious bodily injury

*Felony A Offenses (Cont.)*

35-43-1-1	Arson	* Causes bodily injury
35-43-2-1	Burglary	* Bodily injury

Level B

09-30-5-5	OWI Causing Death	* Causes death
35-42-1-2	Causing suicide	* By force/duress
35-42-1-3	Voluntary Manslaughter	* Kills another, under sudden heat
35-42-2-1.5	Aggravated Battery	* Injury with risk of death/serious permanent disfigurement.
35-42-2-6	Battery by Bodily waste	* Infects with TB/hepatitis
35-42-3-3	Criminal Confinement	+ Armed with deadly weapon
35-42-4-1	Rape	+ Threat of deadly force
35-42-4-2	Criminal Deviate Conduct	+ Threat of force
35-42-4-3	Child Molestation (fondles, touches with intent to arouse a child under 14 years)	+ Bodily injury/psychological harm
35-42-4-5	Vicarious Sexual Gratification	+ Use or threat of deadly force
35-42-4-9	Sexual Misconduct with Minor	+ Threat of force/deadly weapon/serious injury
35-42-5-1	Robbery (Armed)	* Deadly weapon/bodily injury
35-43-1-1	Arson	+ Endangers life/for hire
35-43-2-1	Burglary	+ While armed
35-44-3-3	Resisting Law Enforcement	* Operates vehicle causing death
35-44-3-5	Escape	* Deadly weapon/inflicts bodily injury
35-45-8-3	Consumer Product Tampering	* Serious bodily injury
35-46-1-3	Incest (sexual intercourse with child under 14 who is biological relative)	+ Bodily injury/psychological harm
35-46-1-4	Neglect of a Dependent/Child Selling	* Serious bodily injury

Level C

09-11-2-5	Driving While Intoxicated, causing death	* Causes death
09-30-5-4	OWI Causing Serious Bodily Injury	* Serious bodily injury
09-30-5-5	Driving While Intoxicated, causing death	* Causes death
35-42-1-4	Involuntary Manslaughter	* Kills while trying to commit a C or D felony or an A misdemeanor that poses risk of serious bodily injury
35-42-1-5	Reckless Homicide	* Recklessly kills another
35-42-1-6	Feticide	* Terminates a human pregnancy
35-42-1-7	Transfer of Contaminated Body Fluid	* Infects with hepatitis/TB
35-42-2-1	Battery	* Serious bodily injury/deadly weapon
35-42-2-2	Criminal Recklessness	+ Deadly weapon
35-42-2-6	Battery by Bodily Waste	+ Transmits HIV as a result
35-42-3-3	Criminal Confinement (victim under 14 yrs)	+ Psychological harm
35-42-4-3	Child Molestation (fondling/touching child under age 14.)	+ Bodily injury/psychological harm

*Felony C Offenses (Cont.)*

35-42-4-5	Vicarious Sexual Gratification (child under age 14)	+ Bodily injury/psychological harm
35-42-4-8	Sexual Battery	+ Use of deadly weapon
35-42-4-9	Sexual Misconduct with a Minor (sexual intercourse or CDC with child at least 14, but less than age 16)	+ Bodily injury/psychological harm
35-42-5-1	Robbery	+ Threat of force
35-43-1-1	Arson	+ Causes bodily injury
35-44-3-2	Assisting a Criminal	+ Assist in Murder or Class A felony, or providing a gun
35-44-3-3	Resisting Law Enforcement	* Serious bodily injury
35-44-3-5	Escape	+ Deadly weapon
35-45-8-3	Consumer Product Tampering	* Serious bodily injury
35-46-1-3	Incest (sexual intercourse with child, age 16 or older, who is biological relative)	+ Bodily injury/psychological harm

Level D

9-11-2-4	DWI-Resulting in Serious Bodily Injury	* Serious bodily injury
9-30-5-4	OWI-Resulting in Serious Bodily Injury	* Serious bodily injury
35-42-1-4	Involuntary Manslaughter	+ Use of vehicle
35-42-2-1	Battery	* Bodily injury
35-42-2-2	Criminal Recklessness	* Deadly weapon
35-42-2-4	Obstruction of Traffic	* Serious bodily injury
35-42-2-6	Battery by Bodily Waste	+ Transmits HIV as result
35-42-3-3	Criminal Confinement	+ Threat of force
35-42-4-2	Criminal Deviate Conduct	+ Threat of force
35-42-4-3	Child Molestation (person 16 years or older with a child over 12 years, but less than 16 years who fondles, touches with the intent to sexually arouse)	+ Bodily injury/psychological harm
35-42-4-4	Child Exploitation (produces, manages, sponsors, presents, exhibits photos, films, videos including sexual conduct of child under 16 years.)	+ Bodily injury/psychological harm
35-42-4-5	Vicarious Sexual Gratification (causes victim under 16 years to fondle self or another person)	+ Bodily injury/psychological harm
35-42-4-6	Child Solicitation (person 18 years or older who solicits a child under 14 years to engage in sexual intercourse, deviate sexual conduct, or fondling)	+ Bodily injury/psychological harm
35-42-4-7	Child Seduction (person over 18 years who is guardian, adoptive parent, custodian of child 16 years but less than 18 years, and engages in sexual intercourse)	+ Bodily injury/psychological harm
35-42-4-8	Sexual Battery	+ Threat of bodily force
35-42-4-9	Sexual Misconduct with a Minor	* Bodily injury/psychological harm
35-43-1-1	Arson	+ Causes bodily injury

*Felony D Offenses (Cont.)*

35-44-1-5	Sexual Misconduct (sexual intercourse with detainee)	+ Bodily injury/psychological harm
35-44-3-3	Resisting Law Enforcement	* Deadly weapon/serious bodily inj.
35-44-3-5	Escape/Failure to Return to Lawful Detention	+ Use of deadly weapon
35-45-8-3	Consumer Product Tampering	+ Introduces poison
35-46-1-3	Incest	+ Bodily injury/psychological harm

\* Offense is wholly consistent with the violent crime law (IC5-2-6.1-8). Example: crime causes serious bodily injury or death.

+ Offense is likely to result in bodily injury, psychological/emotional harm or personal deprivation, which is consistent with the violent crime law.

Prepared by: Planning Division  
AMENDED: July 1, 1999

*List of Drug Offenses, Related Citations*

I. Dealing Offenses

FA07	35-48-4-1	Dealing in Cocaine/Narcotics
FA06	35-48-4-2	Dealing in Scheduled I, II, or III Controlled Substances
FB12	35-48-4-1	Dealing in Cocaine/Narcotics
FB09	35-48-4-2	Dealing in Scheduled I, II, or III Controlled Substances
FB10	35-48-4-3	Dealing in Scheduled IV Controlled Substances
FB11	35-48-4-4	Dealing in Scheduled V Controlled Substances
FC18	35-48-4-10	Dealing in Marijuana, Hash Oil, Hashish
FC17	35-48-4-3	Dealing in a Scheduled IV Controlled Substance
FC39	35-48-4-4	Dealing in a Scheduled V Controlled Substance
FC19	35-48-4-4.6	Dealing/Possession of Look-Alike Substance
FD24	35-48-4-10	Dealing in Marijuana, Hash Oil, Hashish
FD22	35-48-4-4	Dealing in Scheduled V Controlled Substances
FD23	35-48-4-4.5	Dealing in Substance Represented to be a Controlled Substance
FD20	35-48-4-5	Dealing in a Counterfeit Substance
FD25	35-48-4-8.2	Dealing in Paraphernalia
MA36	35-48-4-10	Dealing in Marijuana, Hash Oil, Hashish
MA35	35-48-4-4.6	Dealing/Possession of Look-Alike Substance
MC03	35-48-4-4.6	Dealing/Possession of Look-Alike Substance

II. Possession Offenses

FA09	35-48-4-6	Possession of Cocaine/Narcotics
FB16	35-48-4-6	Possession of Cocaine/Narcotics
FB36	35-48-4-7	Illegal Possession of Scheduled IV Controlled Sub. W/IS1000
FC35	35-48-4-6	Possession of Cocaine or Narcotic Drug
FC34	35-48-4-7	Possession of a Controlled Substance
FD78	35-48-4-11	Possession of Marijuana, Hash Oil, Hashish
FD54	35-48-4-6	Possession of Cocaine or a Narcotic Drug
FD53	35-48-4-7	Possession of a Controlled Substance
FD56	35-48-4-8.3	Possession of Paraphernalia
FD89	35-48-3-9	Possession of Prescription/Alleged Drug
MA37	35-48-4-11	Possession of Marijuana, Hash Oil, Hashish
MA	35-48-4-6	Possession of Cocaine
MA45	35-48-4-8.3	Possession of Paraphernalia

III. Miscellaneous Drug Offenses

FC11	35-48-4-14	Controlled Substance Registration
FDA6	35-48-4-1	Cultivation of Marijuana
FD16	35-48-4-14	Controlled Substance Registration
FD43	35-48-4-13	Maintaining a Common Nuisance
FD44	35-48-4-8.1	Manufacture of Paraphernalia
MA54	35-48-4-13	Maintaining a Common Nuisance
MB23	35-48-4-13	Visiting a Common Nuisance



### ***List of Sex Crimes, Related Citations***

*(These are the offenses included when we query for 'sex offenders')*

FA10	35-42-4-1	Rape
FA05	35-42-4-2	Criminal Deviate Conduct
FA03	35-42-4-3	Child Molestation
FA12	35-42-4-5	Vicarious Sexual Gratification
FA17	35-42-4-9	Sexual Misconduct with a Minor
FB18	35-42-4-1	Rape
FB08	35-42-4-2	Criminal Deviate Conduct
FB04	35-42-4-3	Child Molestation
FB20	35-42-4-5	Vicarious Sexual Gratification
FB27	35-42-4-9	Sexual Misconduct with a Minor
FB29	35-46-1-3	Incest
FC08	35-42-4-3	Child Molestation
FC46	35-42-4-5	Vicarious Sexual Gratification
FC43	35-42-4-8	Sexual Battery
FC60	35-42-4-9	Sexual Misconduct with a Minor
FC63	35-46-1-3	Incest
FD81	35-42-4-2	Criminal Deviate Conduct
FD09	35-42-4-3	Child Molestation
FD08	35-42-4-4	Child Exploitation
FD72	35-42-4-5	Vicarious Sexual Gratification
FD75	35-42-4-1	Rape
FDA7	35-42-4-6	Child Solicitation
FD10	35-42-4-7	Child Seduction
FD66	35-42-4-8	Sexual Battery
FDA2	35-42-4-9	Sexual Misconduct with a Minor
FDT8	35-45-4-1	Public Indecency*
FDB5	35-45-4-5	Voyeurism*
FD38	35-46-1-3	Incest
MA62	35-42-4-4	Possession of Child Pornography+
MA04	35-42-4-6	Child Solicitation
MA67	35-42-4-9	Sexual Misconduct with a Minor
MA22	35-45-4-1	Public Indecency*
MB13	35-45-4-5	Voyeurism*
MC02	35-45-4-1	Public Indecency*

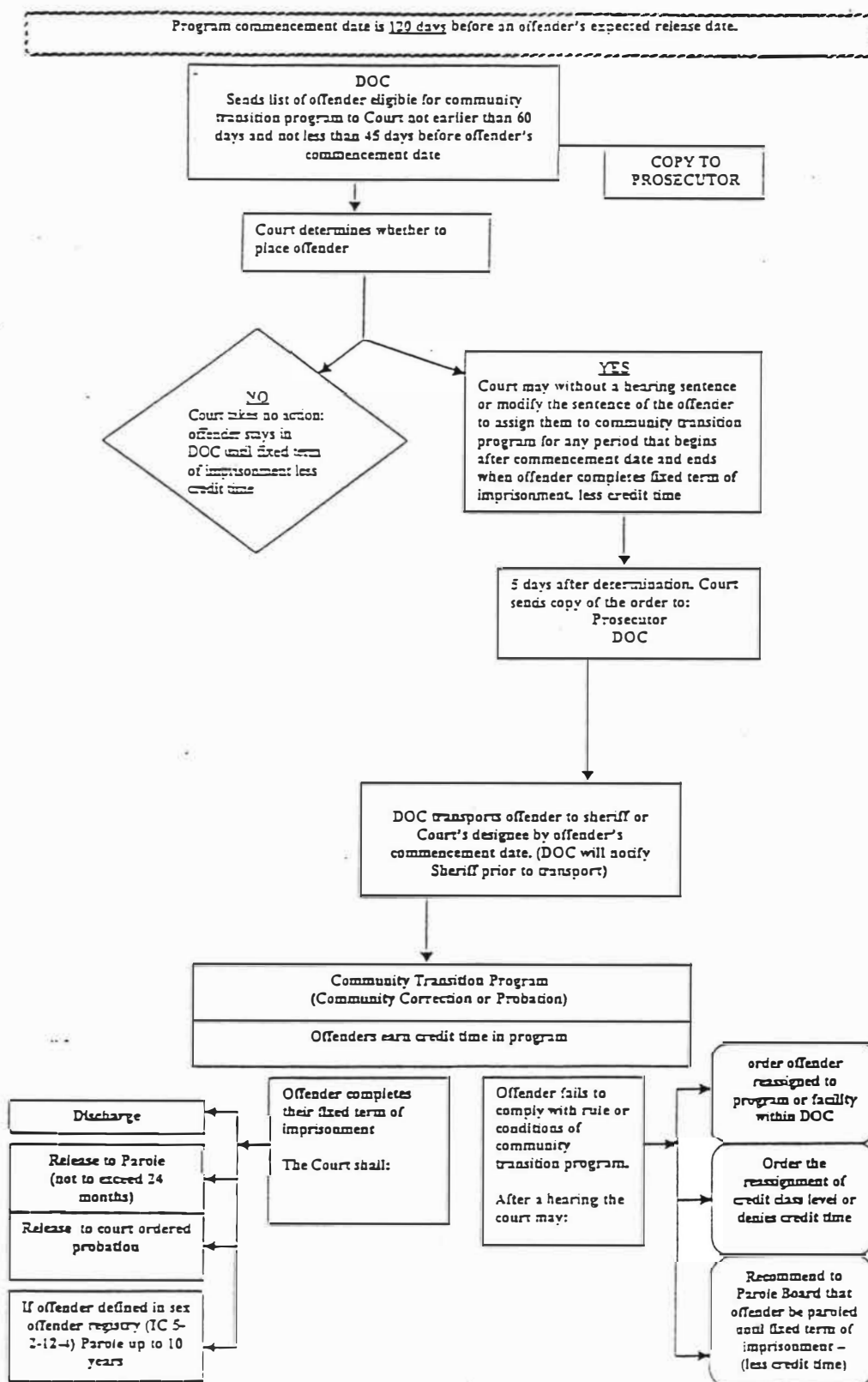
*\*Indicates that the offense is not considered a sex crime per the Indiana Criminal Code, but offenders who are convicted of these offenses are included in the group targeted for the Sex Offender Treatment Program.  
Incest was legislated a sex offense by the Indiana General Assembly on 07/01/99.*

*+Possession of Child Pornography, while a separate offense, falls under the legal citation for child exploitation.*

Appendix C

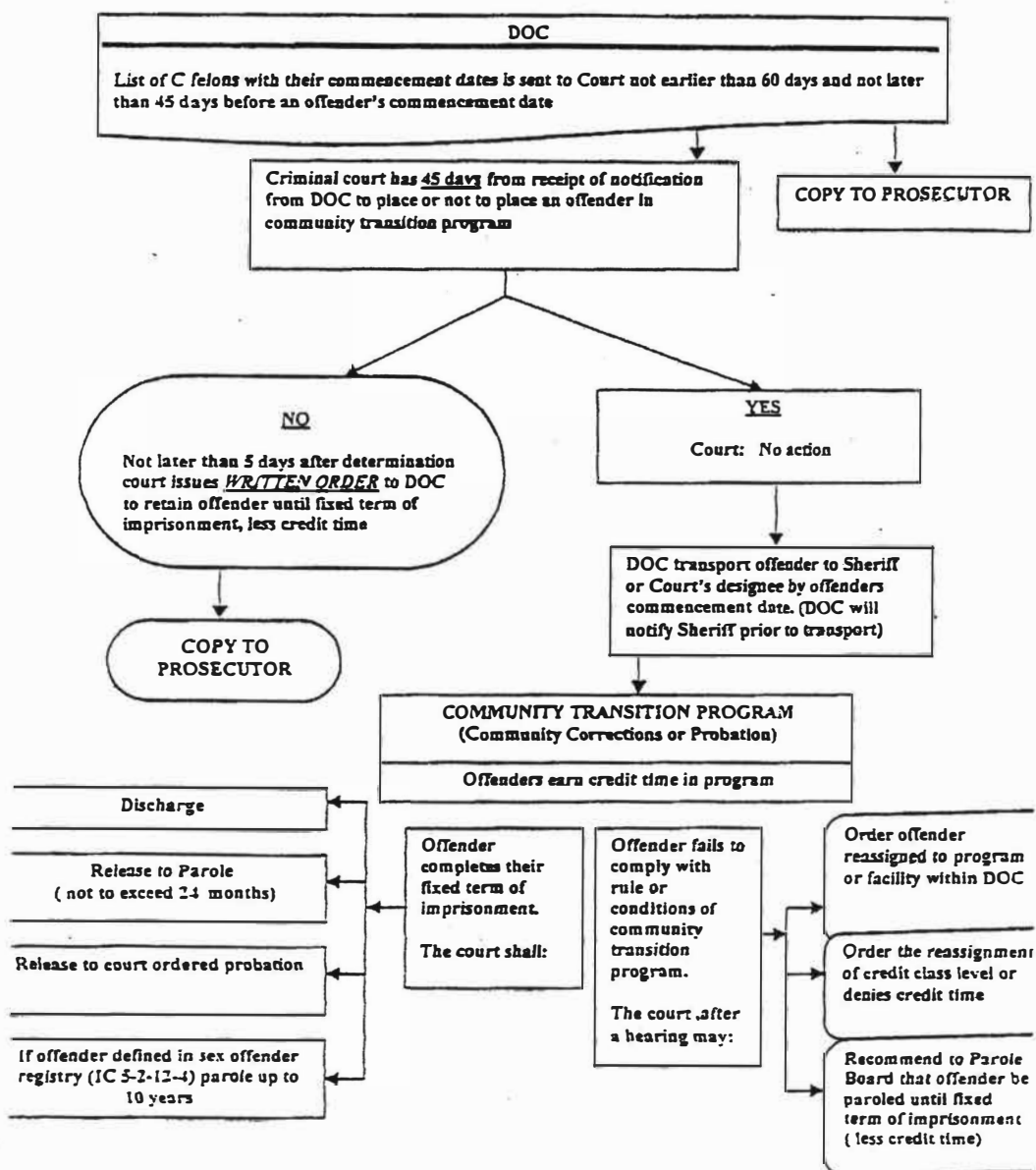
Community Transition Program Flowcharts

# Community Transition Program A & B Felonies (excludes murder)



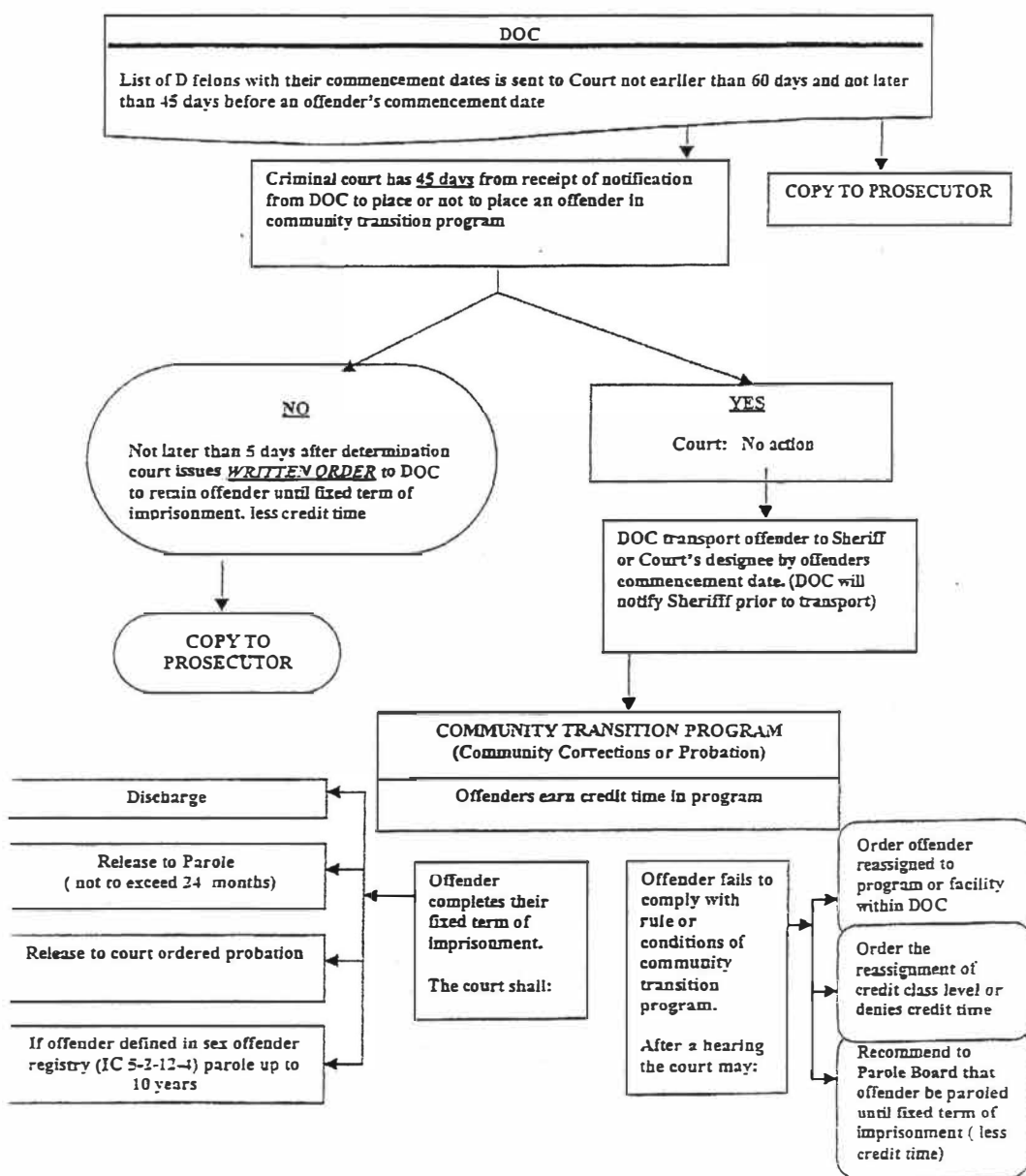
## Community Transition Program C FELONS

"Program Commencement Date" means 90 days before an offender's expected release date.  
(IC 11-8-1-5.6)



## Community Transition Program D FELONS

“Program Commencement Date” means 60 days before an offender’s expected release date.  
(IC 11-8-1-5.6)



## Appendix D

### Indiana Department of Correction S.O.M.M. Program Overview

INDIANA DEPARTMENT OF CORRECTION  
SEX OFFENDER MANAGEMENT AND MONITORING PROGRAM  
(S.O.M.M. Program Overview)

Introduction

The goal of the Sex Offender Management and Monitoring Program (S.O.M.M.) is to provide a comprehensive monitoring system of adult, male, sex offenders to reduce sex offense crimes in the State of Indiana in a cost-effective manner. A Containment Model will be followed which places the sex offender in the center of a team approach to monitor and manage his behavior enriched through the use of the polygraph.

The development of this intensive supervision continuum has been greatly assisted through collaboration with the National Institute of Correction, Colorado Department of Correction, Kentucky Department of Correction, and several nationally known experts in the field with experience using the Containment Model.

The Containment Model in sex offender management allows for communication between all agencies monitoring the sex offender. The Indiana Department of Correction, Indiana court systems, other state agencies, local law enforcement, outside community agencies and community treatment providers work together. This umbrella approach: (1) assures compliance with post-release conditions; (2) provides cognitive-behavioral management and comprehensive monitoring; and, (3) provides information to family and significant others involved with the sex offender.

Implementation of the Sex Offender Management and Monitoring Program (S.O.M.M.) goes beyond the Indiana Department of Correction's incarceration and management of committed sex offenders. Across the board communication will provide wider coverage of the sex offender's movement, compliance with assigned stipulations, and socialization back into the community. Collaborative information will aid in establishing a statewide modus operandi database which, in combination with DNA collection and Sex Offender Registry, will create a permanent record to deter future sex offenses and aid in the investigation of new crimes.

**I. INITIATIVE**

Reduction of Sex Offense crimes in the State of Indiana

**II. MISSION**

**"To develop a collaborative, statewide system to protect the public by reducing sex offender victimization in Indiana."**

The Sex Offender Management and Monitoring Program is designed to identify and provide specialized supervision and management of convicted adult, male sex offenders. The program is formatted to enhance public safety by providing a service continuum for sex offenders throughout incarceration and post-release supervision. The goals of the program use a Containment Model to provide:

- S.O.M.M. sex offender identification at the Reception Diagnostic Center (RDC) in Plainfield;
- Collaboration with law enforcement in maintaining a DNA Database of convicted sex offenders utilizing Indiana Law IC 10-1-9;
- Collaboration with law enforcement in creation of a Modus Operandi (M.O.) Database of convicted sex offenders;
- Specialized behavioral management programs and tracking capacity within the Indiana Department of Correction continuing through the post-release process;
- A specialized pre-release process, including risk assessment and modus operandi evaluation for post-release planning.
- Specialized stipulations and post-release supervision of sex offenders by state and court agents to provide close surveillance, polygraph assessment and cognitive-behavioral programs in collaboration with approved community treatment providers and polygraphers;
- Compliment and support the Indiana Sex Offender Registry and post-release offender registration requirements under Indiana Law IC 5-2-12.

**III. COMPONENT RATIONALE**

Sex offenders are known to have a significant rate of recidivism. In addition, without addressing sex-offense behaviors sex offenders tend to escalate in frequency and/or severity.



Incarceration and post-release supervision alone, and treatment alone, have not proven to be effective methods of reducing sex offender recidivism. A combined effort with communication and collaboration among all disciplines working with sex offenders has demonstrated effectiveness in several other states, and is referred to as a Containment Strategy. 120

According to a recent study in Colorado, a prison system with intensive sex offender cognitive-behavioral programs, specialized community supervision, and polygraph assessment creates the possibility of reducing sex offender recidivism by approximately 50%. Additionally, information obtained from such a collaborative continuum more accurately identifies and updates sex offender behaviors and modus operandi. This information will eventually be placed into a statewide database for faster apprehension of the offender if he reoffends.

While there is no "cure" for sex offenders, external controls can be enforced by a coordinated systems effort to monitor and direct his actions and reduce the likelihood of reoffending. At the same time, the offender is provided opportunities to master skills and create support systems necessary to develop internal controls and manage his own actions even after post-release supervision is completed.

Resources developed will also support a containment approach for those convicted sex offenders who do not require imprisonment and who remain on probation in the community.

#### IV. GUIDING PRINCIPLES

A. Sexual offending is a behavioral disorder which cannot be "cured."

Sexual offenses are defined by law and may or may not be associated with or accompanied by the characteristics of sexual deviance which are described as paraphilias. Some sex offenders also have co-existing conditions such as mental disorders, organicity, or substance abuse problems.

Many offenders can learn through cognitive-behavioral programs to manage their sexual offending behaviors and decrease their risk of reoffense. Such behavioral management should not, however, be considered a "cure," and successful completion of a sex offender program cannot permanently eliminate the risk that sex offenders may repeat their offenses.

B. Sex offenders are dangerous.

When a sexual assault occurs there is always a victim. Both literature and clinical experience suggest that sexual assault can have devastating effects on the lives of victims and their families.

There are many forms of sexual offending. Offenders may have more than one pattern of sexual offending behavior and often have multiple victims. The propensity for such behavior is often present long before it is detected. It is the nature of the disorder that sex offender behaviors are inherently covert, deceptive, and secretive. Without addressing their specific sex-offense issues, sex offenders also commonly exhibit varying degrees of denial about the facts and the severity and/or frequency of their offenses.

Prediction of the risk of reoffense for sex offenders is in the early stages of development. Therefore, it is difficult to predict the likelihood of reoffense or future victim selection.

C. Community safety is paramount.

The highest priority of these standards and guidelines is community safety.

D. Assessment and evaluation of sex offenders is an on-going process. Progress in management programs and levels of risk are not constant over time.

The effective assessment and evaluation of sexual offenders is best seen as a process. Under the S.O.M.M. Program, sex offenders are first identified and receive initial sex-offense information during their indoctrination at The Reception and Diagnostic Center (RDC) in Plainfield.

With full Implementation of the program, risk assessments to determine the offender's level of risk of reoffending will be conducted prior to release from incarceration and forwarded with other information known about the offender's modus operandi for individualized, intensive supervision after release. Beyond release, further assessments will be conducted periodically by community treatment providers and polygraphers. Collaboration with probation assessment procedures would further enhance this process.

In the monitoring of sex offenders there will be measurable degrees of progress or lack of progress. Because of the cyclical nature of offense patterns and fluctuating life stresses, sex offender levels of risk are constantly in flux.

Success in the management and monitoring of sex offenders cannot be assumed to be permanent. For these reasons, monitoring of risk must be a continuing process as long as sex offenders are under criminal justice supervision. Moreover, the end of the period of court supervision should not necessarily be seen as the end of dangerousness.

- E. Assignment to probation or post-release supervision is conditional; and, sex offenders must be completely accountable for their behaviors.

Sex offenders on probation or post-release supervision must agree to intensive and sometimes intrusive accountability measures which enable them to remain in the community rather than be incarcerated. Offenders carry the responsibility to learn and demonstrate the importance of accountability and to earn the right to remain under post-release supervision.

- F. For the S.O.M.M. Program to be effective, sex offenders must waive confidentiality for evaluation, supervision and case management purposes.

All disciplines managing sex offenders must have access to the same relevant information. Sex offenses are committed in secret, and all forms of secrecy potentially undermine the monitoring of sex offenders and threaten public safety.

- G. Victims have a right to safety and self-determination.

Victims have the right to determine the extent to which they will be informed of an offender's status in the criminal justice system and the extent to which they will provide input through appropriate channels to the offender management process. In the case of adolescent or child victims, custodial adults and/or guardians ad litem act on behalf of the child to exercise this right, in the best interest of the victim.

- H. A continuum of sex offender management and monitoring options should be available in each community in the state.

Many sex offenders can be managed in the community through probation, community corrections, or parole. It is in the best interest of public safety for each community to have a continuum of sex offender management and monitoring options. Such a continuum should provide for an increase or decrease in the intensity of supervision and monitoring based on an offender's changing risk factors, needs, and compliance with supervision conditions.

Standards and guidelines for assessment, evaluation, cognitive-behavioral interventions, and behavioral monitoring of sex offenders will be most effective if the entirety of the criminal justice system, social service systems, and community providers, apply the same principles and work together.

Setting standards for community service providers alone will not significantly improve public safety. In addition, the process by which sex offenders are assessed and managed by the criminal justice and social service systems should be coordinated and improved.

I. The management of sex offenders requires a coordinated team response as demonstrated by the Containment Model

All relevant agencies must cooperate in collaboratively managing and monitoring sex offenders for the following reasons:

- (1) Sex offenders should not be in the community without comprehensive supervision, cognitive-behavioral interventions, and monitoring.
- (2) Each discipline brings specialized knowledge and expertise.
- (3) Open professional communication confronts sex offender tendencies to exhibit secretive, manipulative and denying behaviors.
- (4) Information provided by each discipline involved in the offender's management creates a more thorough understanding of his risk factors and needs. It also assists in the development of a comprehensive approach to monitor and manage the sex offender.

J. Sex offender assessment, evaluation, and behavioral management should be non-discriminatory, humane, and bound by the rules of ethics and law.

Individuals and agencies carrying out the assessment, evaluation, and behavioral management of sex offenders should not discriminate based on race, religion, gender, sexual orientation, disability, or socioeconomic status. Sex offenders must be treated with dignity and respect regardless of the nature of the offender's crimes or conduct.

- K. Successful management and monitoring of sex offenders is enhanced by the positive cooperation of family, friends, employers and members of the community who have influence in the sex offender's life.

Sexual issues are often not talked about freely in families, communities and other settings. In fact, there is often a tendency to avoid and deny that sex offenses have occurred. Successful management and monitoring of sex offenders involves an open dialogue about this subject and a willingness to hold sex offenders accountable for their behavior.

#### OVERALL S.O.M.M. PROGRAM REVIEW

##### Reception and Diagnostic Center (RDC)

- (1) DNA Samples collected from adult, males at RDC  
Indiana Law (IC 10-1-9)

- a) Felonies under IC 35-42 (Offenses Against Persons)
- b) IC 35-43-2-1 (Burglary)
- c) IC 35-42-4-6 (Child Solicitation)

Sex offenders convicted of IC 35-42 "Sex Crimes" currently have DNA collection conducted at RDC in cooperation with the Indiana State Police.

- (2) S.O.M.M. Offenders Identified

Instant Offense S.O.M.M. convictions include felony convictions for: Rape, Criminal Deviate Conduct, Child Molestation, Child Exploitation, Vicarious Sexual Gratification, Child Solicitation, Child Seduction, Sexual Battery, Sexual Misconduct with a Minor, Incest, Public Indecency, Voyeurism, and Promoting Prostitution with a minor. S.O.M.M. offenders entering RDC at implementation will attend a mandatory sex offender Awareness Program. Refusal to comply will result in consequences for the offender. Target offenders will continue to be tracked through incarceration and into parole supervision.

- (3) S.O.M.M. Offender contact

The S.O.M.M. Program provider at RDC will meet with the S.O.M.M. target offenders to explain the S.O.M.M. Program process, requirements, and consequences for non-compliance.

(4) PHASE I: Awareness Program Implemented

The S.O.M.M. Program provider will conduct the Awareness Program in a classroom format at RDC. This mandatory 15-hour informational program is specifically related to sex-offense behaviors and effects on victims. The Awareness Program is PHASE I of the S.O.M.M. Program and is a pre-requisite to PHASE II.

(5) S.O.M.M. Documentation and Statistics

Computer and written documentation will reflect the offender's compliance or refusal to attend the Awareness Program. Consequences will be enforced for those who refuse to comply. The S.O.M.M. Program provider will maintain monthly statistics on the number of S.O.M.M. offenders: (1) entering RDC; (2) completing the Awareness Program; and (3) refusing or unable to comply with the PHASE I process; and (4) reasons for lack of completion.

D.O.C. Facilities Receive S.O.M.M. Offenders(1) List of arriving S.O.M.M. Offenders Obtained

Facility Classification Departments will provide periodic lists of new offender arrivals to the S.O.M.M. provider for continued tracking of S.O.M.M. offenders for inclusion into PHASE II programs (and later New Castle Correctional Facility) in the last three years of the offender's sentence.

(2) PHASE II management programs made available in final three (3) years of sentence

Westville, Putnamville, Miami, and Correctional Industrial Facility, Wabash Valley, and Marion County Jail II will be designated PHASE II S.O.M.M. sites. PHASE II is designed to manage adult, male, sex offenders through an in-depth risk assessment and cognitive-behavioral management process. S.O.M.M. providers trained in identifying sex offender issues will conduct PHASE II behavioral management programs.

At this time PHASE II is voluntary and requires the offender to sign authorization forms prior to assessment. The offender must be informed that some disclosed information will become a part of his permanent DOC record and may be reviewed by: the Indiana Parole Board, parole, probation, law enforcement personnel, his community management providers and, appropriate future facility staff if transferred. The offender must be informed: (1) that information will include: relapse prevention plan, personal triggers, deviant cycle, modus operandi involving victim choice and grooming methods; problem areas, and S.O.M.M. Program participation, risk assessment; and (2) be used for creation of

individualized post-release stipulations and overall behavioral case management. Specifically, the New Castle Correctional Facility will utilize polygraph technology to obtain information regarding sex offenders for case management and monitoring purposes.

Offenders determined to be a medium or high-risk offender, and "amenable and appropriate" will be referred to PHASE II. Amenable and appropriate and defined as: (1) admitting the sex offense; (2) seeing their sexual behavior as a problem; and (3) willing and able to actively participate in a major cognitive-behavioral management program. PHASE I is a pre-requisite to PHASE II.

(3) Documentation of offender response to PHASE II

Documentation on level of risk, modus operandi, problem areas, triggers, etc. commences as soon as the offender signs appropriate forms and PHASE II pre-assessment begins. Documentation placed in the computer (Offender Information System-OIS) and offender records by the S.O.M.M. Program provider, will indicate offender response to PHASE II such as refusal or willingness to participate and other findings essential in determining management and monitoring needs. Sex offenders referred to PHASE II who refuse to participate, will be indicated as "high risk" offenders in the S.O.M.M. Summary that will be forwarded for post-release supervision planning.

(4) S.O.M.M. Summary completed prior to release

The S.O.M.M. Program provider will complete a S.O.M.M. Summary on S.O.M.M. offenders prior to release. This report is to include: (1) known modus operandi, personal triggers, deviant cycle, problem areas, and relapse prevention plan; (2) documented sexually related conduct reports while incarcerated; (3) cooperation or lack of cooperation in PHASES I & II; (4) monitoring or management concerns for post-release supervision, and; (5) risk assessment results. This summary will be forwarded to the releasing facility's Classification Release Coordinators prior to release for post-release planning.

When polygraph assessment is initiated into PHASE II at a later date, results will be added also to the S.O.M.M. Summary. Those offenders who admit their charges will be given a Full Disclosure Polygraph, which involves a lifetime psychosexual history evaluation. Deniers will be given a Specific Polygraph related only to the charge they were convicted on.

- (1) Offender and documentation arrive at assigned post-release office.

A S.O.M.M. Summary containing the S.O.M.M. offender's known relapse prevention plans, problem areas, deviant cycle, triggers, modus operandi, PHASES I and II participation, risk assessment, and recommendations will be forwarded to the specially trained case manager/ parole agent. Probation Officers will also have access to the final S.O.M.M. Summary to assist in post-release supervision per Administrative Code 210-IAC 1-6-6. The Indiana Parole Board will assign specialized sex offender stipulations to parolees.

- (2) Assignment to specially trained post-release case manager/ parole agent and PHASE III components.

S.O.M.M. offenders will be monitored by case managers/parole agents specially trained in identifying sex offender relapse signs, needs, and defense mechanisms that could result in reoffending.

Each sex offender will provide information through self-report related to his deviant cycle, triggers, modus operandi, problem areas, and relapse prevention plans. Some offenders will not be able or willing to be specific. This information will be compared to the modus operandi of his instant offense and the S.O.M.M. Summary. Any new information will be added to the Modus Operandi Information System if appropriate.

- (3) Verification of Registry requirements

The specially trained case manager/parole agent will verify that: (1) the S.O.M.M. Offender has complied with the Sex Offender Registry including local registration through written confirmation and; (2) at least an initial M.O. is placed into a Modus Operandi Information Files.

- (4) Development of Specialized Post-Release Supervision

An overall management plan incorporating offense specific cognitive-behavioral programs, specialized supervision, and polygraph assessment will be developed utilizing information and resources available in the receiving community.

Releases or Waivers signed by the offender will be needed for collaborative communication between post-release authorities, law enforcement personnel, and community program providers. This



paperwork must be completed with the offender's indicating full understanding of his rights and the meaning of "Waiver of Confidentiality" in relationship to post-release stipulations. If the offender refuses to comply with the management sanctions, he will be considered a "high risk" offender and increased sanctions including the possibility of revocation will be applied.

Community program providers will probably ask the offender to sign similar paperwork again to meet their legal/ethical obligations. The exception would be 12-Step meetings such as Alcoholics Anonymous (A.A.), Sex Addicts Anonymous (S.A.A.), etc. While signing attendance paperwork may not be a problem, confidentiality is sacred to these groups and will not likely be shared with outsiders.

The offender is to be informed: (1) of consequences if names of additional victims are identified during the polygraph or behavioral intervention phases (No "Immunity"): and, (2) that failure to comply with S.O.M.M. requirements will result in increased stipulations or revocation.

#### (5) Modus Operandi Database Updates

With full implementation of the program, specially trained case manager/parole agents will update Modus Operandi information for eventual placement in state, and eventually, national databases to assist in the investigation of new sex crimes.

#### (6) Referral to Community Management Providers

In PHASE III, a S.O.M.M. offender management team will be identified by the case manager/parole agent with the addition of a polygrapher and community treatment providers specially trained to work with sex offenders and selected from an approved provider's list.

All disciplines involved in working with the S.O.M.M. offender must agree to openly share information related to relapse behaviors, new victims, modus operandi, or past unreported crimes with each other as new information is identified. This can only be accomplished after appropriate waivers/releases have been signed by the offender.

#### **Note:**

Not all sex offenders sent for referral will be accepted by community management providers. Those offenders who deny their sex offending behavior or who in spite of admitting do not see a need for complying with S.O.M.M. requirements may not be accepted into some community programs even if they are willing to attend to avoid re-incarceration.

Denier Groups, 12-Step Programs, or increased supervision may offer a temporary alternative and confront the offender's denial enough to encourage participation. If not, revocation will be examined.

(7) Polygraph Assessment

Polygraph assessment will be utilized in PHASE III as mandatory parole stipulations for continued monitoring of reoffense behaviors or other parole violations. The polygrapher(s) will be specially trained to assess sex offenders and selected from an approved provider list.

The Indiana Department of Correction is seeking a plan to polygraph sex offenders prior to release to more accurately verify their risk behaviors and offending patterns before entering the community. However, PHASE II polygraphs will not be initiated until a later time.

Polygraph results and methods of implementing findings must be understood. Specially trained case managers/ parole agents, community program providers, and other professionals managing sex offenders will receive training to make appropriate referrals, collect data, interpret polygraph results, and be aware of the legal/ethical requirements for a collaborative continuum of sex offender management. It is anticipated that recidivism for new sex crimes will be reduced as a result of higher standards of accountability and decreased opportunity for secrecy and deception due to polygraph involvement.

Prior to each polygraph administered the offender will sign appropriate paperwork for sharing of results with the rest of the management team as well as indicate his understanding of consequences for deception, new crimes, or uncovering of any parole violations. The polygraph session is to be audio or video taped to assure compliance with legal and ethical standards and as part of the case management process.

The case manager/parole agent will place appropriate information into the offender's modus operandi information as it is identified for availability in investigation of new sex crimes.

(8) S.O.M.M. Offender Family Referral

It is important to provide the families of sex offenders an informational component as they can reinforce denial and non-compliance with the management process when they do not know the extent of the offender's problems and stipulations. Selected family members or significant others involved with the

paroled offender will receive a copy of the offender's recovery plan and parole requirements after obtaining proper written authorization from the offender.

A more formal educational component for family and significant others conducted by specially trained professionals is being examined for future implementation.

In some cases, an offender's community provider may include or make recommendations to family members as part of the S.O.M.M. offender's treatment process.

#### **D. Ongoing Training and Staff Support**

All staff working primarily with sex offenders need on-going training to stay up-to-date on advancements in the field and to improve their skills. Some individuals experience secondary trauma when working with sex offenders and supervisors need to be trained in identifying secondary trauma symptoms.

Staff burnout is of primary concern due to the intensity of working with this population. Sex offender denial and defense mechanisms require a great deal of energy and effort to identify and confront on a consistent basis. All staff involved in S.O.M.M. Offender management will need regular training and support to minimize the personal effects of working so closely with such an intense population.

#### **E. Research and Documentation**

Collection of data to measure the success of the S.O.M.M. Program and identify needed improvements will require the aid of a researcher. This collection of data will serve three purposes:

- (1) Provide information on the more effective and least effective methods utilized for updating and improving efficiency of the program,
- (2) Provide a method for reporting to the state legislature how the monies are being spent and their effectiveness, and;
- (3) Provide data for obtaining further funding.

Implementation of The Sex Offender Management and Monitoring Program goes beyond the Department of Correction's immediate control over Indiana's convicted sex offenders. Once released from incarceration and post-release stipulations, statewide DNA and modus operandi databases, and the Sex Offender Registry process allow for a permanent record for identifying possible suspects of new sex crimes sooner than previously permitted.

Cognitive-behavioral programs will give convicted sex offenders the opportunity to correct their deficient skills and increase their internal motivation to avoid reoffending.

Education of family and significant others will allow those around the offender to identify relapse behaviors and encourage compliance with an ongoing recovery process.

## Appendix E

### Protocol Clearance From the Human Subjects Institutional Review Board

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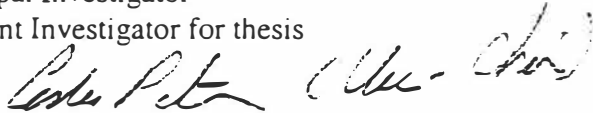
## WESTERN MICHIGAN UNIVERSITY

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Date: 22 December 1999

To: Zoann Snyder, Principal Investigator  
Janine Ralston, Student Investigator for thesis

From: Sylvia Culp, Chair



Re: HSIRB Project Number 99-10-20

This letter will serve as confirmation that your research project entitled "Examining Correction Policy and Practice in Response to Indiana's Zachary Law: A Regional Analysis" has been **approved** under the **expedited** category of review by the Human Subjects Institutional Review Board. The conditions and duration of this approval are specified in the Policies of Western Michigan University. You may now begin to implement the research as described in the application.

Please note that you may **only** conduct this research exactly in the form it was approved. You must seek specific board approval for any changes in this project. You must also seek reapproval if the project extends beyond the termination date noted below. In addition if there are any unanticipated adverse reactions or unanticipated events associated with the conduct of this research, you should immediately suspend the project and contact the Chair of the HSIRB for consultation.

The Board wishes you success in the pursuit of your research goals.

Approval Termination: 22 December 2000

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