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# FINAL REPORT OF THE INTERIM STUDY COMMITTEE ON STATE PRISON ISSUES



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**December, 1993**

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**December, 1993**

## I. STATUTORY DIRECTIVE

The Legislative Council charged the Prison Issues Study Committee with studying the following:

- (1) Prison reform issues (based on HCR 119).
- (2) The criminal justice system including: (A) the operations of the state's correctional system; (B) the activities that occur within the correctional system regarding literacy programs; (C) various victim's rights issues including victim compensation; (D) criminal penalties; and (E) crime rates, reduction, and deterrence (based on SCR 95).

## II. INTRODUCTION AND REASONS FOR STUDY

Members of the General Assembly have received a growing number of complaints from family members of inmates in Indiana prisons. Members of the General Assembly have recently visited a number of Indiana prisons and have become aware of some unsatisfactory conditions existing in the prisons. The unsatisfactory conditions include an increasing number of "lockdowns" which suggest that some disciplinary problems exist. In part, as a result of the perceived unsatisfactory conditions in Indiana prisons, the Prison Issues Study Committee was established. In addition, the Committee was established to study matters relating to problems within Indiana's criminal justice system with an emphasis on the treatment that victims of crime receive within the criminal justice system.

## III. SUMMARY OF WORK PROGRAM

The Committee held five meetings.

- (1) The first meeting was held on September 16, 1993. At this meeting the Committee established its work plan and heard testimony regarding prison conditions, victim compensation, and correctional reform.
- (2) The second meeting was held on October 13, 1993. The meeting was conducted at the Indiana State Prison (ISP). The committee received an extensive, educational tour of ISP and heard testimony on victim's rights issues, prison industries, and prison reform.
- (3) The third meeting was held on October 28, 1993. The meeting was conducted at the Indiana Women's Prison (IWP). The Committee received an extensive, educational tour of IWP and heard testimony on correctional issues relating to the rights of the mentally retarded, parole and clemency issues, prison reform, and community corrections issues. The Committee also heard testimony from several inmates.
- (4) The fourth meeting occurred on November 17, 1993. The

Committee discussed numerous ideas for findings, recommendations, and legislative proposals.

(5) The fifth meeting was scheduled for November 22, 1993. The Committee voted on numerous recommendations.

#### **IV. SUMMARY OF TESTIMONY**

##### **A. Positive Aspects of Indiana's Correctional System**

(1) Indiana has one of the best correctional systems in the country.

(2) In 1990-91, the country had a 6.3% average increase in its inmate population. However, Indiana's inmate population decreased by .2%. Indiana diverts many offenders into its community corrections programs.

(3) Indiana is doing a fine job with its juvenile population. Indiana is the only state that offers truancy mediation programs. Indiana also offers alternative school programs for juveniles. Additionally, the Indiana Boys' School population is down by 250 youths since last year.

(4) The number of prisoner substance abuse counselors has tripled since 1990.

(5) There is a 37% increase in the number of offenders participating in educational programs while in prison. Currently, 11,000 offenders are enrolled in general equivalency degree (G.E.D.) programs. Five years ago, only 5,000 offenders were enrolled in G.E.D. programs.

(6) The DOC's budget has decreased in recent years, but the DOC is operating more efficiently.

(7) Indiana prisons provide for a transition program that is unique to Indiana. The program includes 21 separate courses that are provided to each offender. The DOC recently implemented legislatively mandated transitional programming. Phase I of the programming requires that 90 days before the release of each offender, the offender must receive training in the following areas:

- (A) Family & domestic issues.
- (B) Economics.
- (C) Substance abuse.
- (D) Leisure time.
- (E) Parenting.
- (F) Community resources.
- (G) Social identification.

- (H) Health care.
- (I) Stress.

The above-mentioned programming has been required since the legislation took effect on July 1, 1993. Phase II of the program recommends that a correctional facility develop special programming to meet the particular needs of each offender coming into the facility. For example, programs should be developed to meet the needs of sex offenders. Phase III of the program addresses the development of transitional programs that would primarily provide a link between the offender and aftercare facilities.

#### **\* Facts about Indiana State Prison (ISP)**

ISP is a Level 4 maximum security prison. Prisons are categorized by Levels 1 through 4. Level 4 offers the highest level of security. ISP is the only fully Level 4 correctional institution in Indiana. ISP has Indiana's "death row". ISP is considered the "end of the road" institution. The average sentence being served by an ISP inmate ranges from 50-60 years to life imprisonment. There is an increasing trend of younger, much more difficult offenders entering ISP. The age of the inmates ranges from 16 to 86 years of age.

ISP has a maximum inmate capacity of 2,200 prisoners. However, ISP is under court order to operate at a maximum capacity of 1,650 because of correctional officer and medical staff shortages. Nationally, ISP is considered an above-average institution with top-notch staff. However, difficult working conditions and low pay result in very high staff turnover. Correctional officers have not received any raises during the past four or five years. ISP employs 325 correctional officers and is currently operating with a shortage of 25 correctional officers. ISP's medical staff includes four full-time physicians, nine registered nurses, and 18 licensed practical nurses.

ISP offers educational programs. An inmate may participate in a general equivalency degree (GED) program and may enroll in Ivy Tech courses. On-site instructors from Grace College and correspondence courses through Indiana University are also provided to inmates. Inmates have the opportunity to earn an associate's degree and a bachelor's degree. Thus far four inmates have earned bachelor's degrees.

ISP offers job training to inmates in the following areas:

- (a) License plate manufacturing
- (b) Computers
- (c) Plumbing
- (d) Welding
- (e) Barbering

- (f) Upholstery
- (g) Building maintenance
- (h) Food service

**\* Facts about Indiana Women's Prison (IWP)**

(1) The newest program at IWP is an entire unit that serves offenders who are mentally retarded or who have psychological problems. IWP is seeing an increase in this type of offender. IWP has one teacher with a master's degree in special education, and another special education teacher will soon be joining the staff. There are very few prison units anywhere in the country that deal with an offender's special education needs. IWP's unit is a pilot project that may serve as a model for the rest of the country.

(2) IWP offers religious opportunities to its entire prison population. IWP has a full-time chaplain. IWP offers religious services and Bible study groups.

(3) Each offender who has serious psychological or medical problems is confined to IWP. Wishard Hospital attends to medical needs of IWP's offenders.

(4) IWP places a lot of emphasis on keeping offenders who are mothers in contact with their children. An offender's adjustment to prison often has a strong link to her relationship with her children. IWP offers parenting programs.

(5) IWP offenders have a recidivism rate of 23%. The recidivism rate for male offenders is approximately 80%. Female offenders often take advantage of the educational and therapeutic opportunities that are available within prison.

(6) IWP emphasizes educational and therapeutic programs. IWP offers GED through college programs. IWP has 195 offenders enrolled in educational programs, 61 of whom are enrolled in post secondary education programs. Ball State University and Martin University provide the college courses to IWP.

**B. The Function of the Indiana Parole Board**

(1) The Indiana Parole Board makes recommendations to the Governor regarding the release of an offender. The Parole Board reviews 300 offenders on an annual basis. Ninety-two percent of the cases reviewed are drug-related offenses.

(2) The Parole Board reviews 125 parole violators per month. The Parole Board has the authority to recommend pardons to the Governor. The Governor granted 6 pardons out of 61 recommended last year.

(3) Clemency is within the absolute discretion of the Governor. To qualify for clemency the offender must have already served one-third of the offender's sentence and must be sentenced to at least six years. Governor Bayh appears to believe that a judge or jury should have ultimate authority for sentencing an offender. Governor Bayh does not want to intercede into the sentencing. Governor Bayh has only granted one clemency petition during his five years as Governor.

(4) The Parole Board is increasingly sensitive to the needs of an offender's family. An offender's family has the opportunity to make a statement to the Parole Board.

### **C. Indiana's Correctional System Reform**

(1) Murder, torture, unjust lockdowns, religious oppression, racial discrimination, and other human rights abuses currently take place within the Indiana prison system. Anecdotes describing these acts were provided to the Committee.

(2) Westville Correctional Institute's maximum control complex has refrigerated and light deprivation cells. Persons who are incarcerated within this complex are subjected to being led around in chains, having 200-pound water pressure hoses turned on them, and are being forced to submit to unreasonable rectal searches.

(3) Many offenders have a difficult readjustment phase upon release from prison. Formerly incarcerated persons cannot find proper assistance upon release from prison.

(4) In 1991, 27 incarcerated persons died within Indiana prisons. (Conflicting reports exist regarding how many persons actually died.)

(5) There isn't enough scrutiny taking place regarding what is happening inside the prisons.

(6) Several Indiana prisons are involved in litigation which targets egregious violations in some of the prisons. The Committee should review the litigation and court orders relating to Indiana's prisons.

(7) The DOC does not communicate candidly with the families of prisoners. Families do not have anyone to contact regarding the health and safety of a family member in prison. Visiting rules for family members in prison are not standard throughout the DOC.



(8) The issue of transition from prison into the community is a public safety issue. Prisoners who are confined to the maximum control facility in Westville or segregated cells are not offered the opportunity to participate in a transition program prior to being released. In addition, previously when a person was released from prison, the person received "gateage". ("Gateage" is the issuance of money to the person which is to be used during the person's transition back into the community.) During the past two years, however, "gateage" has not been given to many released prisoners. Therefore, some prisoners are released without having access to any money.

(9) Very little is being done to change a prisoner's thought process. The DOC needs to better address rehabilitating the behavior of persons who are incarcerated.

(10) Correctional officers' salaries should be raised so that the salaries are comparable with correctional officers' salaries in the surrounding states. Correctional officers' salaries are much lower in Indiana compared with the surrounding states.

(11) Gang activity is on the increase at ISP. Recently, ISP enforced the longest prison lockdown in its history. Inmates were confined to their cells for ten consecutive months. The lockdown arose because of broad-based violence and general unrest throughout the prison. Prison conditions have improved as a result of the lockdown.

(12) There is a problem of destitute inmates at ISP. Approximately 600-700 inmates are without jobs or any income.

#### **D. Victim's Rights Issues**

(1) The Committee should examine recouping of wages obtained through work release for the purpose of funding the violent crime victims' compensation fund.

(2) Victims generally don't know about the violent crime victims' compensation fund. Emphasis should be placed on distributing information that will help victims receive compensation.

(3) The victims' assistance programs offered through county prosecuting attorneys' offices need to place more emphasis on helping victims cope with their emotional problems.

(4) The Victim Offender Reconciliation Program in Elkhart gives a victim the opportunity to confront the offender one-on-one in a caring and nonjudgmental atmosphere. The victim has the chance to tell the offender how the offense has affected the victim's life. The offender has

the opportunity to apologize to the victim. The victim and offender work out a victim reconciliation contract in which the offender agrees to certain remedies as a result of committing the offense. Eighty percent of victim reconciliation contracts are fulfilled. In contrast, only 30-40% of the court orders for restitution are fulfilled.

(5) There are 120 victim reconciliation programs throughout the United States. Four of the programs are located in Indiana.

(6) Restitution is an important part of a court order. Ordering restitution is only meaningful if the offender has income. An offender has the opportunity to earn income if the offender is employed by a community corrections program. Indiana has developed community correction programs since 1980 and is far ahead of the rest of the country. The Indiana General Assembly should continue to support the expansion of community corrections.

(7) Money needs to be appropriated to the victim compensation fund.

(8) Idleness is a major problem in prisons. Prison industries should be expanded.

#### **V. COMMITTEE FINDINGS AND RECOMMENDATIONS**

**Finding #1.** The Committee finds that the 1993 interim period for conducting Committee business was extremely short. The Committee finds that there is still much work to do in the areas of victim's rights and prison reform.

**Recommendation #1.** Introduce a resolution during the 1994 legislative session urging the Legislative Council to establish the Prison Issues Study Committee for next year. **The resolution will combine HCR 119 and SCR 95.** (Consensus).

**Finding #2.** The Committee finds that HEA 1644-93 (which allows an offender to receive certain sentence reductions for successful completion of specified educational requirements) may not be applied retroactively, and, therefore, currently does not reward offenders who took the initiative to better themselves educationally before HEA 1644 became effective. The Committee further finds that HEA 1644 has been difficult for the DOC and courts to interpret and therefore is in need of certain clarifications.

**Recommendation #2.** The Committee voted to amend HEA 1644-93 (IC 35-50-6-3.3) as follows:

(1) Amend the law to apply retroactively without any time limitation regarding the scope of the retroactivity. (Consensus).

(2) Amend the law by adding a provision that prevents an offender's immediate release from a correctional facility as the result of the offender's successful

completion of educational requirements. The Committee discussed a statute that was enacted during the 1993 legislative session that requires each offender to undergo a 90-day transitional program prior to the offender's release from an Indiana correctional facility. The Committee agreed that they do not wish to circumvent the new transitional program law as the result of any amendments to HEA 1644. (Consensus).

(3) Add to the law a provision stating that an offender is eligible for a sentence reduction for successful participation in educational programs only if the offender exhibits a pattern of behavior consistent with rehabilitation. (Consensus).

(4) Expand the law to allow an offender to receive a sentence reduction for successfully completing vocational classes as determined to be appropriate by the DOC. Provides that the DOC may certify a one-month sentence reduction for each vocational class that is successfully completed up to a maximum of six classes. Therefore, an offender could receive a six-month sentence reduction for the successful completion of vocational education classes. (Vote: 7 (yes) - 1 (no)).

(5) Clarify the law so that the sentence reduction for successful completion of educational programs applies to an offender's actual time (not one-half of the time as provided by the application of the concept of "good time credit" under the current interpretation of the DOC) served regarding the offender's sentence. Provide that "Credit time earned under this the law must be deducted from the person's earliest possible release date." (Consensus).

**Finding #3.** The Committee finds that 600 inmates are without jobs at the Indiana State Prison (ISP) in Michigan City, and therefore, are on "administrative idle," meaning that the offender neither works nor attends school.

**Recommendation #3.** The Committee recommended that the DOC should be encouraged to develop prison industries as the DOC perceives the need. (Consensus).

**Finding #4.** The Committee finds that before the "Matheny incident," there were over 1,600 persons on work release. (Note: Alan Matheny was an offender who committed murder while out on work release.) Now there are fewer than 200 persons on work release. This change has diminished a significant potential for funding the violent crime victim's compensation fund.

**Recommendation #4.** The Committee urges the DOC to expand work release and that wages earned through work release should be used to fund the violent crime victim's compensation fund. (Vote: 7 (yes) - 2 (no)). (Note that Senators Meeks and Young voted against the recommendation.)

**Finding #5.** The Committee finds that in the majority of instances crime is linked to the use of alcohol or drugs.

**Recommendation #5.** The Committee urges that the DOC expand availability of treatment for substance abusers. (Consensus.)

**Finding #6.** The Committee finds that the Commission on Courts needs to review certain issues.

**Recommendation #6.** The Committee urges that the Commission on Courts examine the following issues:

(A) Increasing the use of restitution to victims as a sentencing sanction.

\* Request the Indiana Supreme Court to modify its quarterly reporting form to require courts with criminal and juvenile jurisdiction to report the amount of restitution ordered and collected. (Consensus).

(B) Amending the law so that juveniles who are 16 and 17 years of age do not have the benefit of confidential proceedings and records. (Consensus).

(C) Proposing legislation requiring pretrial competency testing of witnesses relating to mental retardation. Courts should recognize the unusual difficulties that persons with mental retardation may have when testifying in court and should adopt procedures to assure that their testimony is presented as fully and accurately as possible. Testimony should not be devalued simply because the victim is mentally retarded. (Consensus).

(D) Urging courts to continue to order, as a part of sentencing, that offenders participate in community activities and civic work. (Consensus).

**Finding #7.** As preventive cost savings measure to the state, the Committee finds that viable dispute resolution programs are necessary so that disputes are resolved before they rise to the level of criminal activity.

**Recommendation #7.** The Committee urges attorneys to voluntarily contribute to the funding of dispute resolution programs in all 92 counties throughout Indiana. Further, the Committee strongly urges that courts, administrative agencies, and the General Assembly prioritize expenditures to make funds available for the operation of dispute resolution programs. (Consensus).

**Finding #8.** The Committee finds that in 1991-92, Indiana courts sentenced 272 misdemeanants to prison.

**Recommendation #8.** The Committee urges that the DOC expand community corrections in all 92 counties and further recommends that the DOC examine other alternative means of incarceration. (Consensus).

**Finding #9.** The Committee finds that there has been a significant increase in recent years in the prison population with special education needs.

**Recommendation #9.** The Committee strongly encourages the state vocational rehabilitation programs to serve offenders with mental retardation while the offender is in prison or participating in a community diversion program in addition to after the offender's sentence is completed. (Consensus).

**Finding #10.** The Committee finds that there needs to be an increase in the number of special education teachers in prisons.

**Recommendation #10.** The Committee urges that when the DOC is preparing its next budget, the DOC should increase the number of special education teachers that serve Indiana's correctional system. (Consensus).

WITNESS LIST

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