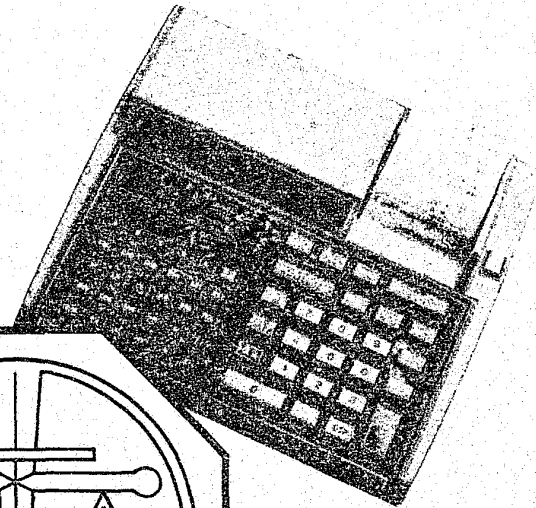
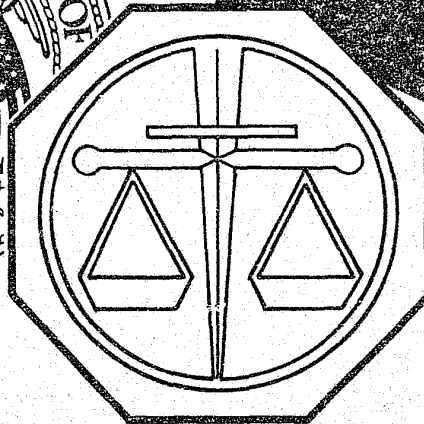
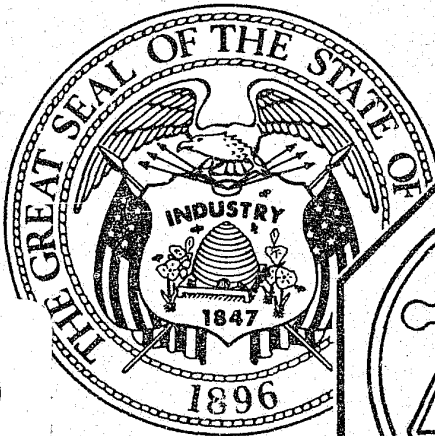
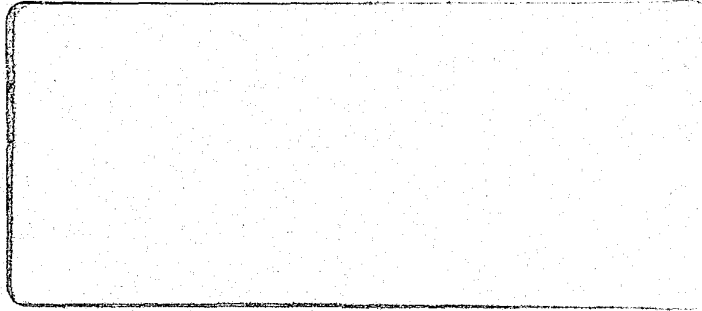


UTAH STATE DIVISION OF CORRECTIONS



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X The Increase of Sex Offenses Indicates

a Need for the Sex Offender Status

at the Utah State Prison

Report # 5

by
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O U T L I N E

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The Increase of Sex Offenses Indicates the Need For the Sex Offender Status at the Utah State Prison

The subject of sex offenses and sex offenders has been given increased attention in recent years. There has always been an interest in this area as indicated by the published books and articles in the past. Renewed interest is indicated by the passage of new statutes as well as revision of old ones by legislatures, and more articles are featured in magazines and newspapers concerning rape and other sex offenses. Despite this increased interest, very little is known about sex offenders and their offenses, and there appears to be a difference of opinion concerning identifying and treating the sex offender.

Among the variety of violent behaviors, particular attention has focused on the crime of rape which is considered the fastest growing crime of violence in the United States (Foote, 1978). According to Rada (1978), between 1960 and 1970, the rate of reported rape offenses doubled, and with an even greater increase following 1967. However, sex offenses prosecuted in courts provide no accurate measure of the total number or incidence of sex offenses performed contrary to law, as only a small proportion of all sex offenses are reported to the police (Tallman and Bowman, 1953). Walker and Brodsky (1976) assert that ten rapes may be committed for every one reported, and police estimate that at least four out of five victims and probably more stay silent. They conclude that "what is important is that rape is the least reported of all crimes."

Traditionally, criminal law has been enacted and enforced on the basis of punishment, and for the most part, this theory remains dominant.

According to Gebhard, Pomeroy, and Christenson (1965), the legal definition of a sex offense is that it is an act contrary to existing statutes prohibiting certain types of sexual behavior. They further state:

A sex offense is an overt act committed by a person for his own immediate sexual gratification which (1) is contrary to the prevailing sexual mores of the society in which he lives, and/or is legally punishable, and (2) results in his being legally convicted . . . a sex offender is a person who has been legally convicted as the result of an overt act, committed by him for his own immediate sexual gratification, which is contrary to the prevailing sexual mores of the society in which he lives and/or is legally punishable . . . the consequences of the act rather than the act itself determines whether or not it shall be termed an offense.

Traditional rape law evolved through case-by-case judicial determination of what acts constitute the crime. This process of lawmaking, known as the common law system, defined rape as "unlawful carnal knowledge of a woman by force and against her will" (Chapman and Gates, 1977). Research has indicated inconsistencies in state laws regarding sex offenses, and as an outcome of this legal dilemma, "some states have redefined rape in terms of the conduct of the rapist (force), rather than the behavior of the victim (resistance) or her state of mind (lack of consent)." To date, eight states have eliminated the word "rape" from their statutes and developed a new vocabulary, using terms such as "criminal sexual assault" or "sexual battery," to connote a crime defined by the behavior of the offender (Chapman and Gates, 1977).

Who is or what is the sex offender? This is the question frequently asked in the literature. Most studies have found the criminals of this classification not to be oversexed fiends. They are not particularly low in intelligence or psychotic. Some appear in need of psychological treatment while others do not. Many of them seem to be emotionally immature and sexually inadequate (Walker and Brodsky, 1976).

For the most part, it is possible there are probably more similarities than differences between them and the average person in today's society.

Sex offenders are usually seen as highly dangerous. Sexual desire is by no means the sole motivation for rape according to many studies. One major category of sex offenders seem to be motivated by aggressive feelings directed toward women; their sexual behavior serves to humiliate, dirty and defile their victims (Kozel, 1972). The violence may vary in degree from simple assault to brutal mutilation.

Guttmacher (1963) found it "far sounder psychiatrically to include the really serious sex offenders among the general group of dangerous offenders than to isolate them in a separate category. Kozel (1972) states:

The potential for dangerous behavior is relative and covers a wide spectrum from the mildly dangerous to the extremely dangerous. We postulate that those elements of the personality which cause dangerous behavior are common to all classes of assaultive behavior and that there is no basic difference between the man who kills to rape and the one who kills to rob.

By some experts, sex offenders are seen as being in need of psychiatric treatment rather than criminal punishment, and yet it is acknowledged by Sidley (1973) that sex offenders would be different than the ordinary mental hospital patient. The sex offender is described by Viocolo (1973) as having psychological conflicts stemming from a childhood fear that thwarted the maturing of his natural sexual desire so that it emerges in distorted, infantile forms that threatened others as well as himself. A study conducted by Pacht, Halleck, and Ehrmann (1962) concluded that the sex offense is a crime committed by some offenders primarily as a result of sociological or cultural factors and by others almost entirely because of psychological determinants.

Much of what is written about the sex offender or the victim is

frequently based on either subjective impressions or descriptive studies of very select groups. (Walker and Brodsky, 1976).

Professional literature is both helpful and confusing. It is helpful in that some meaningful, descriptive characteristics about individuals involved in rape, as well as demographic data about the victims of rape, begin to emerge. . . It is confusing however, because the data sometimes appear inconsistent and usually lack generalizability because they are so closely related to the specific population sampled. . . Rape is a legal term, and not all individuals who commit rape fit neatly into the same personality or behavioral classifications. Indeed, there may be more differences between two rapists than there are similarities (Walker and Brodsky, 1976).

Most studies indicate that the sex offenders are usually relatively young and come from poor educational and socioeconomic backgrounds. They are generally seen as inadequate individuals who are impulsive with poor controls. For the most part they verbalize a lack of responsibility for their behavior. Walker and Brodsky (1976) found that there were some who openly admit their offense and others who were aware of their actions but described it as being like a chance circumstance; some who denied the assault occurred, and some who claimed to be unable to remember the act because of alcohol use. Pacht and Cowden (1974) conducted a study in which they noted that sex offenders showed a significantly higher frequency of prior sex offenses than did non-sex offenders.

There are many problems encountered in bring a sex offender to justice. Foote (1978) informs us that statistics for 1975 indicate that only half of all reported offenses lead to an arrest. Of these, fewer than 60% are prosecuted, and close to half of those tried, are not convicted. Champan and Gates (1977) report that of all rapes actually reported to the police, only a very small number of suspects are ever arrested, charged, and convicted. They further suggest that attrition is so great at each

stage of the criminal process that less than 3% of reports are disposed of as convictions. The remaining 97% of the offenders are never arrested, never charged, or never convicted. According to Gebhard et al. (1965), certain types of sex offenses are by their very nature more likely to be reported to the authorities than others. Offenses involving aggression and violence fall in this type category.

Many convictions for sexual behavior are disguised under broad and vague charges such as vagrancy, public nuisance, disorderly conduct, and so forth (Gebhard, et al., 1965). Sex offenses are further complicated by the fact that a man charged with a serious offense such as rape may be permitted, in the course of plea-bargaining, to plead guilty to a lesser offense; hence men who are in fact rapists may be lodged in correctional institutions for such apparently non-sexual offenses . . . (Brecher, 1978).

Hotchkiss (1978) writes: "While 5 percent of all inmates in state correctional facilities are serving time for sex offenses, that is only the tip of the iceberg. Thanks to plea bargaining, countless others are able to camouflage their sexual crimes and be known . . . as thieves, burglars, and assorted other felons and misdemeanants."

Current research indicates that for the most part, few offenders deny the charge completely; more often they admit to essentials of the charge but do so in such a way as to reduce the seriousness of the offense. The absence of the conviction record is not evidence that the crime was not committed. Amir (1971) states:

Arrest records indicate that such behavior did occur, but for some reason the offender did not face trial on this charge. . . . A sexual offender may have any or all of the following in his recorded criminal past: an arrest, or police record, convictions or court record; a commitment, that is, a prison or hospital record.

Sidley (1973) informs us that the likelihood of recidivism for a first-time sexual offender is only about one in ten; for a second-time or subsequent sex offender is about one in three, while one out of two second-time or subsequent sex offenders with other crimes on their record tend to be repeaters. Sidley further informs us that the greater the number of sex offenses on a person's record, the greater the variety, i.e., a repeat offender does not necessarily stick to one type of offense. Walker and Brodsky (1976) emphasize that repeat offenders with criminal records do know the law and what they can do without being prosecuted, and that "recent research suggests that severity of punishment for an offense is not an effective deterrent; rather the key to deterrence is certainty of punishment."

The impression is gained from the many case studies, surveys and reports, that the person who commits rape is usually a first offender, especially as far as sexual crimes are concerned, but Amir (1971) very aptly writes:

Conflicting generalizations made about recidivism among sex offenders are accounted for by the fact that measurements of recidivism has been made on the basis of different types of previous records. This has resulted in the formation of uneven groups in terms of their recorded criminal past.

Currently at the Utah State Prison, an inmate is classified as a sex offender if he is now serving a sentence for a sexual offense, if he has been charged with such an offense in the past, or if his records present enough evidence suggesting that he has been involved in a sexual offense even though he has not been charged or convicted of such.

Using this criteria, records of inmates whose backgrounds fit the current sex offender category were researched for any history of sexual acting out

prior to their incarceration. The research project included 110 male inmates who had been released from the institution between 1970 and the present time, and 100 who were serving time while the study was in progress. Also included in the research sample were those inmates serving time for violent offenses against persons, i.e., assault, murder, manslaughter, and kidnapping, for sexual offenses in their background, or in conjunction with the offense.

Determinations as to the number of sexual offenses were made on the basis of information contained in their individual files, Presentence Investigation Reports, Investigation Officer's Reports (if present) and FBI rap sheets. For many, only previous arrests were recorded with no further data about the disposition of the charges for which they were arrested.

Table 1 shows the five categories of sex offenses as contained in the Utah Criminal Code as they were tallied for each separate conviction and incarceration, in as much as some inmates have more than one conviction and incarceration. The results in a frequency count are as follows:

N=246

Table 1

<u>Offense</u>	<u>Number Offenses</u>	<u>Percent</u>
Rape	100	.41
Unlawful Sexual Intercourse	41	.17
Forcible Sex Abuse	39	.16
Aggravated Sexual Assault	34	.14
Sodomy	32	.13
Total	<u>246</u>	<u>.101</u>

Table 2 shows the total number of sex offenses (which includes Number of Offenses as contained in Table 1, and other sexual offenses prior to incarceration), the number of inmates who have accumulated that amount of total incidents, and the percent of the sample they represent.

N=210

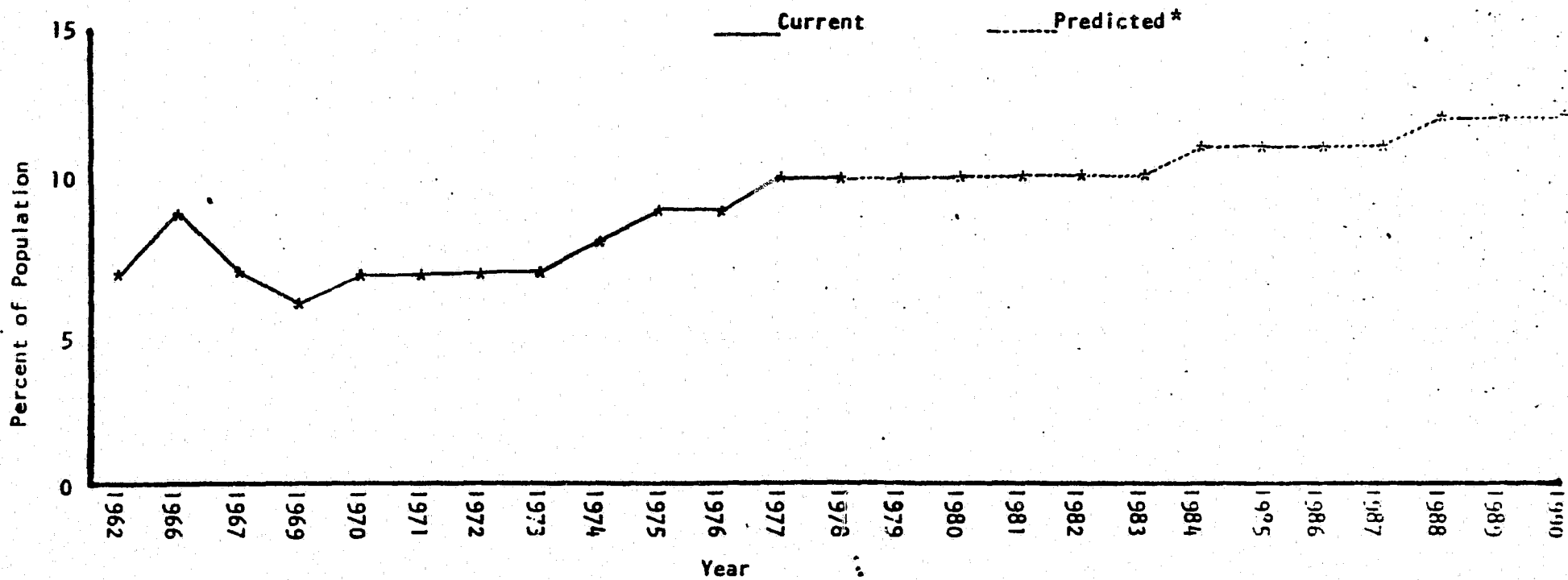
Table 2

<u>Number Incidents</u>	<u>Number Inmates</u>	<u>Percent</u>
1	87	.41
2	41	.20
3	24	.11
4	18	.09
5	9	.04
6	13	.06
7	2	.01
8	5	.02
9	4	.02
10	2	.01
11	2	.01
14	2	.01
16	2	.01
17	1	.005

Table 3 on the next page shows the past, current, and predicted sex offender population at Utah State Prison. The figures were taken from the Utah Prisoner Statistics bi-annual booklets. The projection for the expected population was arrived at by employing a linear regression.

Table 3

UTAH STATE PRISON
Sex Offenses
Current And Predicted



*These figures are assuming there will be no major policy changes affecting the population.

According to the literature, relatively few of the innumerable sex acts which are performed contrary to statutory law are ever reported to any law enforcement officer. It seems clear that sex offenders as a group function in the world as inadequate, impulsive, and poorly controlled individuals who have difficulty accepting responsibility for their actions in most areas of their lives. It is suggested that those personality traits that are responsible for violent sexual assaults are common to all violent behavior.

Many studies present research findings that are incompatible to one another and have conflicting outcomes. Many of the writings describe dramatic cases or describe psychological and psychiatric theories relating to the motivating factors of the offender. The literature that did analyze prior arrest charges and/or reported sexual offenses, is very limited and is to be found usually in only a paragraph or two in the complete study. One thing did seem apparent: that a prior reported history of sex offenses did lend itself to a more ingrained sexual offender.

In addition to the review of the literature, the primary purpose of the research project was to determine how many convicted felons at Utah State Prison since 1970 have been charged with or are reported to have sex offenses in their pre-incarceration history. The results clearly indicate that many do, and if it is true that rape and other sex offenses are the last reported type of criminal activity, these figures can be assumed to be very low.

It is suggested to follow-up on this study with a research of demographic, personality, and social factors including an assessment of the interaction or relationship between the offender and his victim.

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