



State of Indiana
Indiana Department of Correction

Effective Date	Page 1 of	Number
9/1/2015	11	00-03-301

**POLICY AND ADMINISTRATIVE
PROCEDURE**
Manual of Policies and Procedures

Title
SEX AND VIOLENT OFFENDER REGISTRY / APPEAL PROCESS

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-8-8-1 <i>et seq.</i> IC 36-2-13-5.5 IC 35-38-1-7.5 IC 36-50-6-1 IC 35-42-4-14	01-07-101 01-04-105 02-01-103	

I. PURPOSE:

The purpose of this policy and administrative procedure is to provide a mechanism to collect and review information necessary to make a registration decision, advise a person who is to be registered on a Sex and Violent Offender Registry of information to be collected by the Department and transmitted to other authorities upon the offender’s discharge from a Department facility, to provide the offender with a method for challenging the information to be transmitted, and to establish procedures to alert local officials of an offender’s release.

II. POLICY STATEMENT:

The Department may collect any necessary information regarding an offender under consideration for placement on a Sex and Violent Offender Registry before releasing that offender from a Department facility and transmit that information to other authorities for publication. In that event, the Department shall inform the offender, in writing, of the information to be transmitted; establish an administrative process by which an offender may challenge the accuracy of any information to be placed on a Sex and Violent Offender Registry or used to make a determination to place the offender on such a Registry, the appropriateness of transmitting that information, or both; and, inform the offender of the steps he/she must take in order to pursue such an administrative appeal.

III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions apply:

- A. **APPEAL:** The request by a Subject to have any information to be used in conjunction with the placement of an offender on a Sex and Violent

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-03-301	9/1/2015	2	11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

Offender Registry reviewed with the intent of correcting, modifying or deleting the information or preventing its dissemination to a non-departmental authority.

- B. **APPEAL AUTHORITY:** The person designated by the Commissioner to review appeals submitted under this policy and administrative procedure.
- C. **DEPARTMENT:** The Indiana Department of Correction.
- D. **DEPARTMENT FACILITY:** A facility or parole district office operated by the Department or by a private company under contract to the Department.
- E. **MODIFY OR MODIFICATION:** To change, or a change in, the information in the Registry that is accessible by the public.
- F. **NOTICE:** A written statement informing the Subject of his/her right to appeal information related to his/her placement on a Sex and Violent Offender Registry or the transmission of such information as provided in this policy and administrative procedure. For purposes of ease/clarity, Notice and Specimen may be combined in one document.
- G. **OFFENDER INFORMATION SYSTEM SEX OFFENDER FLAGS:**
 - 1. **Sex Offender:** An offender who has been convicted or adjudicated of a sex offense at any time and in any state. This includes all felony and misdemeanor levels of all sex offenses, all offenses with a sexual element, and all sex offenses from other jurisdictions.
 - 2. **Lifetime Parole:** A Subject who is required to be on Lifetime Parole under Indiana Code 35-50-6-1.
 - 3. **Zachary Sex Offender:** A Subject who is required to register under Indiana Code 11-8-8-4.5.
 - 4. **Zachary Violent Offender:** A Subject who is required to register under Indiana Code 11-8-8-5.
 - 5. **Sexually Violent Predator:** A Subject who is required to register as a Sexually Violent Predator under Indiana Code 35-38-1-7.5.
 - 6. **Registry Review Complete:** An indicator that the RVSD completed a review of a Subject's registration requirement.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-03-301	9/1/2015	3	11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

7. Registration Length: The length of time the Subject is required to register under Indiana Code 11-8-8-19.
 8. Registration End Date: The estimated date the Subject's registration requirement will expire. This date is subject to change. This field will be left blank if the Subject is required to register for life.
 9. Registration Court Order: An indicator that an offender has at least one court order regarding sex or violent offender registration.
- H. SPECIMEN: A photocopy or other representation of the information concerning the Subject that the RVSD intends to forward to other Department staff or a non-Department official for publication. That information will advise the Subject:
1. Whether the Subject is required to register with local officials on a Sex and Violent Offender Registry;
 2. The length of time the Subject is required to register;
 3. The offense or offenses that give rise to the requirement to register;
 4. Whether the Subject is a "Sexually Violent Predator" under Indiana Code 35-38-1-7.5;
 5. Whether the Subject is a "Lifetime Parolee" under Indiana Code 35-50-6-1; and
 6. Whether the Subject is a "Serious Sex Offender" under Indiana Code 35-42-4-14.

For purposes of ease/clarity, Notice and Specimen may be combined in one document.

- I. OFFENDER WATCH: The web-based computer program that the Indiana Department of Correction and local sheriffs use to maintain and present information on Subjects required to register under Indiana Code 11-8-8.
- J. REGISTRATION AND VICTIM SERVICES DIVISION (RVSD): The Indiana Department of Correction Division responsible for making sex and violent offender registration determinations.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-03-301	9/1/2015	4	11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

- K. SUBJECT: A person about whom the RVSD has obtained information concerning one or more sex or violent offenses which the RVSD intends to forward to other Department staff or one or more non-Department officials for publication.

IV. INDIANA REGISTRATION CODE AND CASE LAW

The RVSD shall maintain information on registration efforts including Indiana Code, case law, and legal advice.

V. SEX AND VIOLENT OFFENDER REGISTRATION DETERMINATION

- A. At least sixty (60) days before an offender's CTP commencement date or EPRD, the RVSD will begin a review of the offender's registration requirements. Offenders with immediate releases (i.e., court modifications, parole reinstatement, etc.) shall be reviewed as soon as possible upon notification that the individual will be released.
- B. To complete a review, the RVSD shall collect all documents related to the offender's sex or violent offense convictions and/or adjudications. This includes court documents, criminal histories, out of state registration requirements, and any other necessary information.
- C. After the required information is gathered, the RVSD shall determine:
1. Whether the Subject is required to register with local officials on a Sex and Violent Offender Registry;
 2. The length of time the Subject is required to register;
 3. The offense or offenses that give rise to the requirement to register;
 4. Whether the Subject is a "Sexually Violent Predator" under Indiana Code 35-38-1-7.5;
 5. Whether the Subject is a "Lifetime Parolee" under Indiana Code 35-50-6-1; and,
 6. Whether the Subject is a "Serious Sex Offender" under Indiana Code 35-42-4-14.

VI. OFFENDER INFORMATION SYSTEM UPDATES

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-03-301	9/1/2015	5	11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

- A. After determining the Subject's registration requirement, the RVSD shall update the Sex Offender Registry flag screen in the offender information system. The RVSD shall update the following fields:
1. Sex Offender;
 2. Lifetime Parole;
 3. Zachary Sex Offender;
 4. Zachary Violent Offender;
 5. Sexually Violent Predator;
 6. Registry Review Complete;
 7. Registration Length;
 8. Registration End Date;
 9. Registration Court Order; and,
 10. Comment.
- B. When a review is complete, the "Registry Review Complete" flag shall be changed to "Y," and the note in the comment section shall contain the offender's registration requirement, or lack thereof, date of review, and the initials of the individual in the RVSD who reviewed the offender.
- C. If an offender has been released from incarceration since the "Reviewed By" date in the comment section, the facility staff shall notify the RVSD prior to the offender's release and request a new review be completed.

VII. PROVIDING A NOTICE:

- A. If the Department gathers information that a Subject has committed one or more sex or violent offenses in order to transmit that information to one or more public officials for publication upon the Subject's discharge from a Department facility, the Department shall provide the Subject with a Specimen and a Notice.
- B. Except as provided herein, approximately sixty (60) days prior to a Subject's CTP commencement date or EPRD, the RVSD shall provide the Subject's Specimen and Notice to a staff member at the Subject's facility. The facility staff person shall then provide the Subject with the Specimen and Notice.
1. If a Subject has not been confined within one or more Department facilities for sixty (60) continuous days immediately prior to the Subject's release, the Department shall provide the Subject with the Specimen and Notice as promptly as reasonably possible after the Subject is first confined within a Department facility.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number 00-03-301	Effective Date 9/1/2015	Page 6	Total Pages 11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

2. If a Subject's scheduled release date is modified at a time that makes it not reasonably possible for the Department to provide the Subject with a Specimen and Notice sixty (60) days before the Subject is released, the Department shall provide the Subject with the Specimen and Notice as promptly as reasonably possible after receiving notice of the modification of the scheduled release date.
- C. If a Subject is not permitted to possess materials such as a Specimen or a Notice, he/she shall be permitted to review a Specimen and to note any error contained in it. The Subject shall also be provided a copy of the Notice. If the Subject refuses to review the Specimen or Notice or both, the refusal shall be deemed the equivalent of actual receipt of the document or documents refused. In such cases, the staff person delivering the Specimen and Notice to the offender shall note on the Notice that the offender refused to review the Specimen and Notice. A second staff person shall witness the Subject's refusal and sign the Notice as well. The Notice and Specimen shall be filed in the Subject's facility packet. A copy of this document shall be emailed to the RVSD at svor@idoc.in.gov.
 - D. When the staff person presents a Specimen and Notice to a Subject personally, he/she shall note on copies of the Specimen and Notice whether a Specimen and a Notice were provided to the Subject and the date of such action. Additionally, any refusal to accept or to review, either document or both, shall be noted on the Notice. The staff person shall then enter his/her name legibly on the copies and ensure that they are placed in the Subject's facility packet. If the Subject refuses to accept or review the Notice and Specimen, a second staff person shall note on the Notice the Subject's refusal and sign and date the Notice. A copy of this document shall be emailed to the RVSD at svor@idoc.in.gov.

VIII. CONTENTS OF THE NOTICE:

The Notice shall be provided on State Form 552841, "NOTICE OF INTENT TO PROVIDE INFORMATION TO SEX AND VIOLENT OFFENDER REGISTRY AND RIGHT TO APPEAL." The NOTICE shall include information advising the Subject of his/her ability to appeal and shall provide instructions as to how this appeal may be submitted.

The notice shall specify that the Subject will lose the right to raise an issue if he/she does not raise that issue as provided in this policy and administrative procedure.

IX. APPEAL PROCEDURE:

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number 00-03-301	Effective Date 9/1/2015	Page 7	Total Pages 11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

Following the receipt and review of the Notice and any accompanying material, if the Subject believes that the requirement to register or the information to be shared with other authorities is incorrect, the Subject may submit an appeal for a review of the decision and information to the Department, Division of Registration and Victim Services. All appeals for review must be in accordance with this policy and administrative procedure.

A. Scope of the Review.

1. A Subject may assert in the request for review that no information should be forwarded to non-departmental authorities for publication.
2. A Subject may assert that the information to be transmitted is not accurate.
3. A Subject may make both arguments. That is, the Subject may assert both, that no information should be transmitted to other authorities and that, even if information will be transmitted, the Department intends to transmit information that is not accurate.

B. Time for Seeking Review.

1. A Subject must seek review within twenty (20) calendar days of the day he/she receives copies of the Specimen and Notice or is presented with a Specimen and Notice if the Subject does not receive them. If the twentieth (20th) day is a Saturday, Sunday, or State holiday, the period is extended to the next day that is not a Saturday, Sunday, or State holiday. This period may be extended at the discretion of the Appeal Authority if the Subject shows good cause for such an extension.
2. The appeal shall be deemed submitted on the day it is postmarked. For that reason, a Subject who desires to appeal should submit his/her appeal as soon as possible after receiving and reviewing the Notice and Specimen so that the appeal may be postmarked by the twentieth (20th) day following receipt of the Specimen and Notice. For Subjects housed in Department facilities, these appeals shall be considered Privileged Correspondence in accordance with Policy and Administrative Procedure 02-01-103, "Offender Correspondence," and staff shall ensure that these appeals are processed promptly. Staff in Department facilities shall date stamp the envelope containing the appeal on the date that the appeal is received similar to

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number 00-03-301	Effective Date 9/1/2015	Page 8	Total Pages 11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

the date stamping of Legal Correspondence to ensure that these appeals are not delayed in their transmission.

C. Grounds for review.

1. A Subject may contend that no information should be forwarded to non-departmental authorities for publication.
2. A Subject may contend that the information to be transmitted is not accurate.
3. A Subject may raise both of the above contentions in the same appeal.
4. A Subject may not appeal to the Department any change that occurs as the result of an appeal.

D. Method for submitting an Appeal.

1. A Subject may appeal by sending a letter of no more than two (2) pages to:

Director, Registration and Victim Services
Indiana Department of Correction
302 W. Washington St., Room E334
Indianapolis, IN 46204-2738

2. A Subject must state all grounds for appeal in the appeal letter. The Appeal Authority shall consider only those grounds that the Subject has set out in the Appeal.
3. If the Subject wishes the Appeal Authority to contact him/her, the Subject must request the Appeal Authority to do so and explain why he/she believes that personal contact will help the Appeal Authority reach the correct decision. The Appeal Authority may grant or deny this request.
4. If a Subject has any documentation supporting the appeal, a copy of that documentation shall be submitted with the Appeal. No copies will be returned to the Subject, so the Subject should retain his/her own copy of any documentation being submitted for consideration.

E. Decision of the Appeal.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number 00-03-301	Effective Date 9/1/2015	Page 9	Total Pages 11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

1. The Director, Division of Registration and Victim Services, or designee shall serve as the Appeal Authority for the Department.
2. The Appeal Authority shall number each appeal as it is received and shall perform an initial review of all appeals in the order in which they are received.
3. After reviewing the Appeal and any copies of supporting documents, the Appeal Authority may decide that more information is needed. The Appeal Authority may request and review such other information, and may consult such people, including the Subject, as he/she believes is necessary or advisable to decide the appeal.
4. If the Appeal Authority discusses the matter with the Subject or another person or persons, any such discussion may be conducted by telephone, videoconferencing, or personal meeting. Any person so consulted may be placed under oath by a person authorized to administer oaths.
5. An appeal normally will be decided within thirty (30) days after the Appeal Authority receives the Appeal Form and any copies of supporting documents. If the Appeal Authority seeks additional information, the time for decision may increase as necessary to obtain and review that information.
6. If the Appeal Authority requires additional time, the Appeal Authority shall notify the Subject in writing that the period of appeal is being extended. Any notice of extension shall specify the date by which the appeal will be decided.
7. In reviewing the appeal, the Appeal Authority may render any of the following decisions:
 - a. **APPEAL GRANTED:** no information about the Subject relating to a conviction for a sex or violent offense will be forwarded to a non-departmental official for publication;
 - b. **APPEAL GRANTED IN PART:** Not all information on the Specimen about the Subject relating to a conviction for a sex or violent offense will be forwarded to a non-Departmental official for publication; or

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number 00-03-301	Effective Date 9/1/2015	Page 10	Total Pages 11
Title SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS			

- c. **APPEAL DENIED:** Information on the Specimen shall be forwarded as originally intended.
8. A Subject may not appeal to the Department any change that occurs as the result of an appeal. A Subject has no right to further administrative review of any decision of the Appeal Authority.
9. The Appeal Authority may grant an appeal in whole or in part even after the appeal has been deemed denied due to the passage of time.
10. If the Appeal Authority grants a Subject's appeal in whole or in part, the Appeal Authority shall modify the information to be forwarded to the non-departmental authorities at that time.
11. If information has previously been forwarded to a non-departmental authority and the Appeal Authority grants the Subject's appeal in whole or in part, the Appeal Authority shall notify the non-departmental authority of the decision and request that the disputed information be changed or deleted.
12. The Appeal Authority shall notify a Subject in writing of his/her decision, and the reason(s) for it. If the Appeal Authority grants a Subject's appeal in whole or in part, he/she will send a Specimen of any modified information to the Subject along with the notification of the action taken.

X. OFFENDER WATCH UPDATE

- A. At least one (1) day, but no more than one (1) week before a Subject's walkout date, a staff person at the facility where the Subject is incarcerated shall update the Subject's status and address in Offender Watch.
- B. A staff person at the facility shall enter the address of where the subject will be going immediately upon release from the Department (e.g., approved parole placement, address of wanting authority, address for immigration holding facility, etc.). See attached PowerPoint for specific instructions on updating Offender Watch.
- C. After a staff person at the facility updates the Offender Watch record, a staff person at the facility shall print the subject's Indiana Registration Form. The subject shall initial each page and sign the form prior to release. A staff person from the facility shall also sign the form.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-03-301	9/1/2015	11	11

Title
SEX AND VIOLENT OFFENDER REGISTRY APPEAL PROCESS

- D. A staff person at the facility shall scan and e-mail the Indiana Registration Form to svor@idoc.in.gov and retain a copy for the subject’s packet.
- E. Based on the subject’s status and address, the Offender Watch application will send notice to the county sheriff’s office where the subject will be residing. Thus, facility staff should not send additional notice to county sheriffs’ offices about the subject’s release for sex and violent offender registration purposes.
- F. After the subject’s release, the sheriff’s department is responsible for completing the offender’s registration.
- G. The RVSD shall contact the county sheriff’s office or out of state agency if the subject does not register within the time period provided by Indiana Code.

XI. APPLICABILITY:

This policy and administrative procedure is applicable to all Department-facilities and Subjects who are being placed on the Sex and Violent Offender Registry.

signature on file
Bruce Lemmon, Commissioner

Date