

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA  
(Central Division)

Wayne Atwood, Arthur Jennings and  
Daniel Bellman, on behalf of themselves and  
all present and future Iowa Code Chapter  
229A pretrial detainees, and Loren G. Huss  
Jr., John Henry Nachtigall, Timothy  
Gusman, and Lanny Taute, on behalf of  
themselves and those similarly situated,  
Petitioners/Plaintiffs

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} Civil Action  
} 4-02-CV-90359  
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vs.

The Hon. Thomas J. Vilsack, et al.  
Respondents/Defendants

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Petitioners' Addendum  
to Summary Judgment Brief & Appendix

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Page 18 of Petitioners' summary judgment brief is amended to include appropriate reference to the Justice Department study released on November 16, 2003 regarding the actual rates of recidivism among formerly imprisoned sexual offenders. The Appendix in support thereof is amended to include the Justice Departments own press release summarizing the study. The amended pages are attached. The original study is accessible online at:

<http://www.ojp.usdoj.gov/bjs/pub/pdf/rsorp94.pdf> or from Petitioners' attorney and by this reference is incorporated as an addition to the appendix.

(Iowa 2001).<sup>1</sup> Moreover, the initial probable cause determination in Chapter 229A proceedings do not even address the issue of whether the respondent (who is facing potential lifetime commitment) is imminently likely to re-offend if released just prior to trial.

Data from several long-term studies of 4,724 sex offenders released from prisons in the United States and Canada after 1980 show that after 10 years, one in five had been arrested for a new sexual offense.... After 20 years that figure rose to more than one in four. Among men who had victimized children in their own families, an even lower fraction—about 1 in 10—committed a new sexual offense during the first 20 years after release from prison.

Results of studies as reported in: 162 Science News, July 27, 2002 “Men of Prey,” p. 59, 60.

In the most definitive study to date (comparing 272,111 persons released from prison) the Department of Justice reached similar conclusions: “Sex offenders were less likely than non-sex offenders to be rearrested for any offense — 43 percent of sex offenders versus 68 percent of non-sex offenders.” The rate of recidivism among sex offenders for another sex crime within three years was observed to be

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1 “We cannot accept defendant's argument that the legislature,..., required the State to prove that an alleged sexual predator is expected to re-offend within a period of one year. Iowa Code section 229A.2 requires the State to prove that respondent is "more likely than not [to] engage in acts of a sexually violent nature," but does not include a time frame as to when the acts should be expected to occur.” *Id.* 634 N.W.2dat 624

5.3%. Recidivism of Sex Offenders Released from Prison in 1994, U.S. Department of Justice Bureau of Justice Statistics 2003 as summarized in official press release [App. M]; Also see Essay by Dr. Underwager, citing earlier Justice Department studies showing rates of recidivism among sexual offenders to actually be lower than that of dangerous offenders in general.” [App. L, 3 ]

Thus, given what is actually known about the rate of recidivism of sex offenders following imprisonment, this Court should not jump to the conclusion that the Iowa legislature had an unspoken purpose of “preventative detention” so clearly in mind that those words and procedures must be judicially written into the statute.

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ADVANCE FOR RELEASE AT 4:30 P.M. EST

SUNDAY, NOVEMBER 16, 2003

Bureau of Justice Statistics

Contact: Stu Smith 202-307-0784  
After hours: 301-983-9354

### 5 PERCENT OF SEX OFFENDERS REARRESTED FOR ANOTHER SEX CRIME WITHIN 3 YEARS OF PRISON RELEASE

**WASHINGTON, D.C.** -- Within 3 years following their 1994 state prison release, 5.3 percent of sex offenders (men who had committed rape or sexual assault) were rearrested for another sex crime, the Justice Department's Bureau of Justice Statistics (BJS) announced today. If all crimes are included, 43 percent of sex offenders were rearrested for various offenses.

Sex offenders were less likely than non-sex offenders to be rearrested for any offense — 43 percent of sex offenders versus 68 percent of non-sex offenders. But sex offenders were about four times more likely than non-sex offenders to be arrested for another sex crime after their discharge from prison — 5.3 percent of sex offenders versus 1.3 percent of non-sex offenders.

Sex offenders with the highest rate of rearrest for another sex offense were those who had a history of prior arrests for various crimes. While 3.3 percent of sex offenders with one prior arrest were arrested for another sex crime after their release, that percentage more than doubled (7.4 percent) for those with 16 or more prior arrests for different types of crimes. Of the released sex offenders who allegedly committed another sex crime, 40 percent perpetrated the new offense within a year or less from their prison discharge.

Of the almost 9,700 sex offenders released in 1994, nearly 4,300 were identified as child molesters. An estimated 3.3 percent of the 4,300 released child molesters were rearrested for another sex crime against a child within 3 years. Most of the children they were alleged to have molested after leaving prison were age 13 or younger.

Other BJS surveys have shown that 70 percent of all men in prison for a sex crime were men whose victim was a child. In almost half of the child-victim cases, the child was the prisoner's own son or daughter or other relative.

The average sentence imposed on the 9,700 sex offenders was 8 years and, on average, 3 1/2 years of those 8 years were actually served prior to release. The average sentence imposed on the 4,300 child molesters was approximately 7 years and, on average, child molesters were released after serving 3 of the 7 years.

Of the released sex offenders, 3.5 percent were reconvicted for a sex crime within the 3-year follow-up period, 24 percent were reconvicted for any new offense and 38.6 percent were returned to prison, either because they received another prison sentence or because of a parole violation.

Of the 9,700 sex offenders, 67 percent were white males and 32 percent were black males. The percentage rearrested for another sex crime after their release was 5.3 percent of white males and 5.6 percent of black males.

Half of the 9,700 sex offenders were over the age of 35 when released. Recidivism studies typically find that the older the prisoner when released, the lower the rate of recidivism. However, although this study did find the lowest rearrest for a sex crime (3.3 percent) did belong to the oldest sex offenders — 45 years old and older — other age group comparisons were inconsistent. The percentage rearrested for another sex

crime after their release was 6.1 percent of those ages 18-24, 5.5 percent of those ages 25-29, 5.8 percent of those ages 30-34, 6.1 percent of those ages 35-39, 5.6 percent of those ages 40-44 and 3.3 percent of those ages 45 or older.

For 85 percent of those sex offenders who were arrested for another sex crime, the arrest occurred in the same state that released them. For the remaining 15 percent, the arrest was in a different state.

The data are from a study that documented levels of recidivism among all 272,111 men and women released from state prisons in 15 states in 1994. The 272,111 included 9,691 male sex offenders. The 9,691 are two-thirds of all the male sex offenders released from state prisons in the United States in 1994. The study represents the largest followup ever conducted of convicted sex offenders following discharge from prison and provides the most comprehensive assessment of their behavior after release. The report, "Recidivism of Sex Offenders Released from Prison in 1994" (NCJ-198281), was written by BJS statisticians Patrick A. Langan, Erica L. Schmitt and Matthew R. Durose. Single copies may be obtained by calling the BJS Clearinghouse at 1-800-851-3420. Following publication this document can be accessed at:

[www.ojp.usdoj.gov/bjs/abstract/rsorp94.htm](http://www.ojp.usdoj.gov/bjs/abstract/rsorp94.htm)

For additional information about Bureau of Justice Statistics reports and programs, please visit the BJS Web site at:

[www.ojp.usdoj.gov/bjs](http://www.ojp.usdoj.gov/bjs)

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