"Masking" of Victims Names
June 26, 2019

Introduction. This information paper discusses two new requirements: the requirement to "mask" a victim's name in certain sex offenses and to mask the name of the victim for certain crimes of violence. These requirements take effect on July 1, 2019. This paper also discusses how these requirements are being addressed in the Indiana Prosecutors' Case Management System (INPCMS) along with some additional questions.

The Statutes. The requirements are found in Ind. Code §35-40-5-12 (Lexis 2019):

(a) The following shall be identified by means of a designation omitting the victim's name, such as "Victim 1", in court documents open to the public:
    (1) A victim of a sex crime under IC [chapter] 35-42-4.
    (2) A child victim of a crime of violence (as defined in IC 35-50-1-2).
(b) The state shall provide to the court a confidential document identifying the victims named in the court documents.

The "crime[s] of violence" are defined as

(1) Murder (IC 35-42-1-1).
(2) Attempted murder (IC 35-41-5-1).
(3) Voluntary manslaughter (IC 35-42-1-3).
(4) Involuntary manslaughter (IC 35-42-1-4).
(5) Reckless homicide (IC 35-42-1-5).
(6) Battery (IC 35-42-2-1) as a:
    (A) Level 2 felony;
    (B) Level 3 felony;
    (C) Level 4 felony; or
    (D) Level 5 felony.
(7) Aggravated battery (IC 35-42-2-1.5).
(8) Kidnapping (IC 35-42-3-2).
(9) Rape (IC 35-42-4-1).
(10) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
(11) Child molesting (IC 35-42-4-3).
(12) Sexual misconduct with a minor as a Level 1 felony under IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
(13) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).
(14) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).
(15) Operating a vehicle while intoxicated causing death or catastrophic injury (IC 9-30-5-5).
(16) Operating a vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).
(17) Child exploitation as a Level 5 felony under IC 35-42-4-4(b) or a Level 4 felony under IC 35-42-4-4(c).
(18) Resisting law enforcement as a felony (IC 35-44.1-3-1).

(19) Unlawful possession of a firearm by a serious violent felon (IC 35-47-4-5).

I.C. § 35-50-1-2(a) (Lexis 2019).

In summation, the victim's name in a sex crime charge must be masked. In the listed crimes of violence, the victim's name must also be masked if the victim is a child.

Sex Crimes and the PCMS. In order to implement these changes, the crimes involving victims in I.C. chp. 35-42-4 were first identified. Next, a field was created in PCMS that identifies these offenses. When drafting a charge for these offenses, the drafter will get the following pop-up message:

> This is a sex crime. Beginning July 1, 2019, the victim's name must be entered in the charge with a number such as "Victim 1." Enter the victim's name in the system, but do not use the victim's real name in the information or other court documents. See I.C. § 35-40-5-12(a)(1).

Although the victim's name will be entered in the system, it will not populate the draft charge. Instead, the drafter will see x *[Victim No. x]*.

Crimes of Violence, Child Victims, and the PCMS. The crimes listed in I.C. § 35-50-1-2(a) were also identified in PCMS. When an information is being prepared with one of these crimes, the drafter will be notified as follows:

> This is a crime of violence. Beginning July 1, 2019, if the victim is under the age of 18 at the time of charging, the victim's name must be entered in the charge with a number such as "Victim 1." Enter the victim's name in the system, but do not use the victim's real name in the information or other court documents. See I.C. § 35-40-5-12(a)(1).

For these crimes, when the victim's name is entered in the system, it will populate the draft charge. When a victim is not a child, this is as it should be. The point of the message is to help the drafter remember that if the victim is a child, to mask the name.

Other Court Documents and Other Documents. The PCMS has been modified so that drafters can check whether a case is confidential on the victim screen. Once that field is checked, instead of populating documents with the victim's name, the system will alert the drafter by populating the documents with x *[victim_name]*.

AR 9, Green Paper, and Notices of Exclusion of Confidential Information. It is not believed that the statutory changes should necessitate any new work flow/process changes. Drafters should do whatever they do now with regard to filing on green paper, filing redacted versions, and the like. It is true, however, that the range of individuals to have their names masked and the categories of cases have expanded.[1]

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[1] Ind. Administrative Rule 9 requires that identifying information on certain individuals be excluded from public access, but that only juveniles have their names occluded:

> The following shall be excluded from Public Access . . . [w]ith the exception of names, information such as addresses (mail or e-mail), phone numbers, and dates of birth which explicitly identifies: natural persons who are witnesses or victims (not including defendants) in criminal, domestic

Juvenile Management. The PCMS has only one table of offenses. Although somewhat redundant – juvenile case records are already confidential[2] – the new statutory requirements will be implemented in the juvenile management portion of the PCMS.

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violence, stalking, sexual assault, juvenile, or civil protection order proceedings, provided that juveniles who are victims of sex crimes shall be identified by initials only.

Admin R. 9(G)(2)(g).

[2] *See* I.C. § 31-39-1-2.